Parliamentary Debates
(HANSARD)

THIRTY-NINTH PARLIAMENT
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LEGISLATIVE ASSEMBLY

Thursday, 13 March 2014

Legislative Assembly

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THE SPEAKER (Mr M.W. Sutherland) took the chair at 9.00 am, and read prayers.

SELECT COMMITTEE INTO INCREASES IN STATE DEBT — ESTABLISHMENT

Removal of Notice — Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): I advise members that private members' business notice of motion 1, notice of which was given on 9 May 2013 and renewed for a further 30 sitting days on 26 September 2013, will be removed and will not appear on the next notice paper.

HOUSING — SHARED EQUITY SCHEMES

Statement by Minister for Housing

MR W.R. MARMION (Nedlands — Minister for Housing) [9.02 am]: I rise to advise the house of a recent independent review by the Australian Housing and Urban Research Institute in partnership with PricewaterhouseCoopers, which has demonstrated that the Liberal–National state government's current shared equity scheme, SharedStart, is to date one of the most effective home-ownership initiatives for low-to-moderate income earners. SharedStart, which is a Keystart loan product, creates an opportunity for people on low-to-moderate incomes to achieve their dream of home ownership by purchasing a share of the property. Up to 30 per cent is retained by the government. The report, titled "A new approach to delivering shared equity opportunities in Western Australia: a case study evaluation", found that the scheme not only assists low-income earners to secure their own homes, but also has flow-on benefits for the economy. Key findings of the report are that, as at September 2013, the scheme has created $149 million in direct construction activity, created $112 million of induced activity by suppliers, resulted in a total economic benefit of $465 million, supported 1 491 jobs, and assisted 722 low-income households to achieve home ownership.

This unsubsidised form of housing assistance is achieved by using the Department of Housing's working capital to procure the supply of dwellings at scale and to negotiate significant discounts to the market price. This in turn becomes the government's equity share in the properties—$58 million in assets for government that is created at no extra cost. Most significantly, the SharedStart initiative will see a net surplus of funds delivered by government over time, as people progressively buy out the government's equity share.

The report highlights key elements that have contributed to the success of the scheme, such as strong policy leadership from a market-focusing agency and the presence of Keystart as a mortgage provider to homebuyers who normally would be excluded from accessing home ownership. Furthermore, the report explicitly states —

> … that it is a rarity to find government programs that make a sustained, substantial difference to the financial wellbeing of lower-income households and deliver a positive rate of return for Government.

SharedStart forms an integral part of the Liberal–National state government's affordable housing strategy, which has a target of 20 000 new, affordable housing opportunities by 2020. I am pleased to say that the government has already created over 10 000 opportunities.

COMMUNITY SPORTING AND RECREATION FACILITIES FUND

Statement by Minister for Sport and Recreation

MR T.K. WALDRON (Wagin — Minister for Sport and Recreation) [9.05 am]: I was delighted to be in the member for Warren–Blackwood's electorate recently to announce that I had approved funding of $17 768 503 for sports facilities across Western Australia in the major grants round of the community sporting and recreation facilities fund. In all, 28 projects across the state were successful in attaining grants in this round. The CSRFF program has been in place for many years. The strength of the program lies in the partnerships it builds upon and encourages between the community and local and state governments. The decision by the Liberal–National government following the 2008 state election to increase the CSRFF from $9 million to $20 million was met with broad support and has enabled this government to support a larger number of worthy projects. I would like to note the support of members on both sides of the house for this fund.

In this round we received 62 applications seeking $39 392 855 in funding. These requests highlight the demand for ongoing investment in community infrastructure across the state. Of the 28 successful projects, 12 were in the metropolitan area and totalled in excess of $8.8 million, or just under 50 per cent of the fund, while 16 projects were in regional WA, totalling $8.9 million, or slightly over 50 per cent of the total allocation. As always, the Department of Sport and Recreation will work with applicants whose projects were unsuccessful in an effort to improve their chances for funding in future rounds. Grant recipients from this year's round include $2.4 million

to the City of Cockburn for a new multipurpose leisure and aquatic centre; $2 million to the City of Gosnells for playing surfaces, lighting and a multipurpose community building at Mills Park; $1.2 million to the City of Joondalup for a synthetic hockey pitch and pavilion at Warwick Open Space; $900 000 to the City of Kwinana for an upgrade to Kwinana Recquatic; and $1 250 000 to the Shire of Bridgetown–Greenbushes for the redevelopment of the Bridgetown swimming pool.

The CSRFF is an important program for the Liberal–National government that delivers significant health and social dividends consistent with our commitment to supporting grassroots sporting and recreational groups across the state. I would like to thank members on both sides who promote the CSRFF program in their electorates and with me personally. I also acknowledge the great work of Rob Didcoe and his facilities team at the Department of Sport and Recreation, whose experience and hard work ensure that the state maximises the value of this important fund.

NATIONAL ANZAC CENTRE — BRAND MARK

Statement by Minister for Veterans

MR J.M. FRANCIS (Jandakot — Minister for Veterans) [9.08 am]: On Tuesday I accompanied the federal Minister for Veterans' Affairs, Senator Hon Michael Ronaldson, to the National Anzac Centre in Albany to mark the unveiling of the centre's brand mark. Designed by WA-based Block Branding, the brand mark represents the formation of a unified Anzac spirit forged through Australia's and New Zealand's joint effort and sacrifice as a combined army corps in World War I. The nine points of the star represent New Zealand and the eight states and territories of Australia. The continuous intertwined line represents the enduring nature of the Anzac story and the lasting legacy of our servicemen's and women's efforts in forging our national identity. The colour palette of the brand mark signifies the colours of the military battlefield—the uniforms, the cliffs, Gallipoli cove—and of the waters of King George Sound and the coastal saltbush and weathered granite of Albany, which was the point of departure and, for many, the last sight of Australia.

Albany played a key part in the Anzac story, so it is appropriate that the city will play a leading role in centenary commemorations. It was from Albany that thousands of Australian and New Zealand troops departed for Egypt and then Turkey in 1914. For many, it was the last time they would see Australian soil, with more than 60 000 men killed during that war. In recognition of this significant role played by Albany, the state government is working very closely with the commonwealth government, the Returned and Services League of Australia WA branch and the City of Albany on a program of events to mark the Anzac centenary between 2014 and 2018. So far, the state has committed more than $9 million towards the commemoration of the centenary in Albany. A significant component of this allocation is the major upgrade of the Padre White lookout on Mt Clarence, which the state is funding, and the National Anzac Centre being built at Mt Adelaide, funded by both the commonwealth and state governments. Planning is well underway for a program of events to support the official commemorative events in Albany from Friday, 31 October to Sunday, 2 November, and the state government will continue to update the house on this program throughout the year.

MOTOR VEHICLES — OFFENSIVE SIGNAGE

Grievance

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [9.10 am]: My grievance is to the Minister for Police. I thank her for taking this grievance. It might sound a little unusual, but I raise it because one of my constituents came to see me about it. I, too, have noticed the problem, and I am sure a lot of other people in the community have noticed it as well. The problem is the standard of language and visual signage on cars and vehicles on the road. Although the constituent who came to see me is not a prude, he is very concerned about this issue because he often travels in the car with his grandson. He said that he can decide what his grandson sees at the movies, what books he reads and what DVDs he watches; however, when they are travelling on the road, he does not have any choice in what his grandson sees. He came to me and asked whether there are regulations for signage, bumper stickers and colour diagrams and whether there are standards that the community should follow. He asked me to look into it for him. I have noticed those things, too.

To be honest, Mr Speaker, I do not use that sort of language, and I will not use that language in the chamber this morning, so you do not need to worry; I will leave that to members' colourful imaginations. Most normal people are concerned about this issue. During my investigations, I determined that the Classifications (Publications, Films and Computer Games) Enforcement Act 1996 covers bumper stickers and signage on cars. This is not a clear matter on which to legislate, because the section states that the language must be against contemporary community standards. We all know that such standards are not uniform throughout our society. Section 59 imposes the indecent or obscene test on language. It is up to the police to decide whether the language used is obscene or indecent. I suspect that police hear more indecent and obscene language than any other section of our community, which makes it hard for them. I am sure that they would prefer to decide on such matter with clearer guidelines. The courts refer to a "reasonable person" when considering the level of offensiveness, which is a little unclear. I understand—I would be pleased to be corrected on this—that there is no checking of bumper

sticker suppliers or sellers or of car signage to determine whether they meet community standards. I suspect people can put almost anything on a vehicle. It is very difficult area to deal with. During my research on standards, I read about a court case in Dubbo, New South Wales, in which an 18-year-old man was arrested for offensive language when he swore at a police officer. I do not wish to cast aspersions on the people of Dubbo, but I emphasise that the language in the New South Wales act is different from the language in the Western Australian act. The New South Wales act refers to "disorderly or offensive conduct or language" whereas the Western Australian act refers to "indecent" or "obscene" language. It is hard for our courts to consider a court outcome from Dubbo, New South Wales. We need to be careful about that.

This issue is probably more about community standards. Many people in our community have higher community standards than that of the lowest common denominator. For that reason, if for no other reason, it is important that we assist those people and maintain a standard in our community that is acceptable to most people, not the lowest common denominator. Once again, I understand that it this is not an easy subject to deal with. But in situations in which people do not have a choice what they see or read, the standards should be higher. In situations in which people can make a choice, sure, let them make that choice. It is difficult for people to make a choice when something is right in front of them. They would have to get off the road for a while, which they should not have to do.

We should look after our community. Everyone talks about what is happening in our community and what is not right. Simple things like this will make a difference because very few people would say that they have not seen something that has made them say, "Oh, my gosh—how can they get away with that?" Is that what we really want in our community? On behalf of many people in my community, and, I am sure, many people in other communities, I request that bumper stickers and signage on vehicles be more tightly regulated. Perhaps we can we assist the police in doing this. It would also be good if the police were authorised to fine the owners of vehicles who do not comply with signage that meets community standards because it is indecent or obscene.

MRS L.M. HARVEY (Scarborough — Minister for Police) [9.16 am]: I thank the member for Kingsley for this grievance, and for the numerous representations she has made to me as the Minister for Police about law and order matters on behalf of her constituents. The member for Kingsley was correct when she referred to the exposure of police officers to offensive language and to the actions of the cohort of the community that, as the police would agree, is at the extreme end of the scale. Police officers do a terrific job policing those people in very difficult circumstances.

The member for Kingsley referred to a bumper sticker that contains an offensive slogan or image. I advise that there is a provision in the Criminal Code Compilation Act 1913 and the Classifications (Publications, Films and Computer Games) Enforcement Act 1996 under which a person displaying a particular item may be deemed to have committed an offence. Section 74A of the Criminal Code makes it an offence to use insulting, offensive or threatening language or to behave in an insulting, offensive or threatening manner in a public place. Section 59 of the Classification (Publications, Films and Computer Games) Act 1995 makes it an offence for a person to display, publish, exhibit, possess or demonstrate an indecent or obscene article in public. Section 59 of the Classification (Publications, Films and Computer Games) Enforcement Act 1996 makes it an offence for a person to possess, display or sell an indecent or obscene article. It is a matter for the court to determine whether an article is indecent or obscene. Under section 3 of the act, an article includes a publication and has the same meaning as that under section 5 of the Classification (Publications, Films and Computer Games) Act 1995, which is a commonwealth instrument. Pursuant to section 5 of the commonwealth act, a publication means any written or pictorial matter. This includes bumper stickers, caps and clothing, such as T-shirts. According to the Department of the Attorney General's records, from 2007 to 2013, 140 charges were lodged in either the Magistrates or Children's Court for section 59 offences. Of these, 138 related to section 59(5) of the act, which makes it an offence to possess or copy an indecent or obscene article.

While there is the potential that the display of offensive bumper stickers could fall within the range of both these provisions, the case law for offensive language and behaviour suggests that in order for a person's conduct or language in question to be legally unacceptable, it must be of a reasonably high level of seriousness and must attract the disapproval of a fair-minded and reasonable person. As a consequence, this means that a person commits an offence under the respective section only when his or her language or behaviour affronts contemporary community standards. Therein lies our problem.

Let us consider the bumper sticker that reads "F*** off—we are full". I think we are all familiar with it. Sections 77, 78, 79 and 80 of the Criminal Code cover the offences of engaging in conduct or possessing material intended or likely to incite racial animosity or racist harassment. It is the responsibility of WA Police to seek sufficient information to establish if it was the intent of the person displaying the bumper sticker to incite racial vilification. The way police would investigate this is more along the lines of whether it would incite racial animosity or harassment rather than the offensive language used in the sticker. The member can see that there is an issue with interpretation that has occurred over time in the courts.

Police also take into consideration where signs are displayed. For example, police may find something displayed near a childcare centre or a primary school obscene by comparison with a similar sign that might be displayed in an entertainment district or another such location. A very subjective and comparative analysis often occurs in these cases, and when they are brought to court they then have that test of the disapproval of a fair-minded or reasonable person. It is a very difficult area for police to successfully prosecute cases. WA Police does consider that short of prohibiting the display of all bumper stickers on motor vehicles, it would be impractical for any new laws to be introduced that would define with certainty the words that do or do not breach contemporary community standards.

The member referred to a case in New South Wales where the courts determined that language, which most fair-minded and reasonable people that I know and certainly my children and young people that I am within reach of would find offensive and unacceptable, sadly, forms part of the vernacular for a large proportion of our society these days. It makes it very difficult to draft legislation, regulations or any sort of law that will actually impinge upon what a proportion of our community deems a contemporary community standard. There is a difficulty. Police consider this a very vexed area of law and that it would be quite difficult for them to not only come up with a legislative instrument that would satisfy our standards and the standards of others in the community, but also overcome the difficulty for police in enforcing compliance with such legislation. Ultimately, it is up to WA Police to determine an appropriate course of action when these matters are brought to their attention and they do, as I said earlier, prosecute in certain circumstances, such as when they can prove intent to cause harm or incite racial vilification et cetera. I thank the member for bringing this issue to my attention and we will no doubt have further conversation about this in the future.

KWINANA ELECTORATE — MOBILE PHONE SERVICES

Grievance

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [9.23 am]: I begin my grievance by thanking the other side for accommodating what is a fairly unusual grievance and I accept that it falls almost evenly between three different portfolios. In particular, I thank the Minister for Planning for taking this grievance on behalf of the Minister for Transport and the Minister for Lands. I want to talk today about mobile phone reception in areas of my electorate. Kwinana is an outer suburb electorate with a lot of fast-growing communities. As a result, there is increasing pressure upon mobile phone companies to provide the coverage that people need to undertake either normal leisure activities or business activities in the area. Indeed, as people move into the area it draws very heavily upon the signal and a number of areas in my electorate are currently suffering from a lack of mobile reception. In January this year I invited the community to comment on this issue and a number of areas were identified by the community as not having mobile phone services. They included the outer area of Baldivis, a very fast-growing outer suburb, and also areas where one would expect there to be suitable phone coverage, such as Wellard, Leda and Parmelia. Areas of Orelia are also suffering from a lack of mobile phone reception.

On behalf of the community I approached the telecommunication companies that operate in the area and all admitted that, indeed, the area of Wellard, Leda and Parmelia was identified as far back as 2006 as an area that requires further boosting of the mobile phone signal through the acquisition of a decent mobile phone base station. Telstra identified the Wellard train station as the most suitable place to increase mobile phone reception in this area and therefore waited for the train station to be completed. In 2009 some work was done with the Public Transport Authority about installing a mobile phone tower in the car park. The structure was designed to facilitate other mobile phone carriers on the tower. However, in 2010 the PTA said it could not lease the land to Telstra because the land was not vested in them by the Western Australian Planning Commission. At that point Telstra was informed that the transfer was only about six to 12 months away.

In 2010 Telstra requested the PTA to support a proposed Telstra lease with the WAPC. That is, if the WAPC was the current landholder, perhaps Telstra could lease the land from the WAPC and when the land was transferred to the PTA the lease could also be transferred. The PTA responded to Telstra's request —

> In relation to Wellard the PTA's position remains that we are unable to enter into an agreement with Telstra or any other Telco until the land is transferred to the PTA. Once agreement is reached at that stage we will then allow access to the site and determine electrical requirements etc.

In 2011 Optus formally approached Telstra and asked if it could co-locate on that site.

For some reason the land remains unvested in the PTA. Telstra followed this up with the WAPC in early and late March 2012—still no response. Subsequently, Telstra followed it up with the PTA on 31 January 2013, 1 March 2013 and as recently as 15 January 2014. The PTA responded by saying that it has confirmed that the land definitely has not been transferred and there is no indication of when this will occur. Telstra and other telcos remain ready to install mobile phone towers for this community. They remain ready to move as quickly as possible but they cannot move on this important issue until the Department of Lands, the Western Australian Planning Commission and the Public Transport Authority get their act together and have this land vested in the

PTA. Many members would be aware that the Wellard train station has been operating for some years now so it is extraordinary that the PTA continues to operate on this land even though it is officially not the landowner. Although telecommunications falls firmly in the area of the federal government, state governments have an important role to play, in making sure not only that we have mobile phone reception in existing communities, but also, as the Department of Planning continues to release land in the future, that provision is made for the telecommunication companies to have land available to them so they can install the necessary social and economic infrastructure. This will ensure that families can continue to enjoy phone reception and small businesses can operate in the area because, as we know, they all rely on mobile phone reception for their services. Of course, it is not just phone services, there is now 4G for smart phones. Members of the Wellard community in particular who do not have ADSL or ADSL2 landlines to rely upon are obviously relying more heavily on mobile phone services. This is an important issue for the Wellard, Leda and Parmelia communities; it is one that is continuing to detract from their enjoyment of the area. As the community grows, there will be a continuing call and a louder call for the government to get its act together to make land available for Telstra and other telcos to allow the sort of services that people in most communities take for granted.

MR J.H.D. DAY (Kalamunda — Minister for Planning) [9.30 am]: I acknowledge the member for Kwinana's interest in improving wireless telecommunications facilities in his area. Unfortunately, the first I became aware of this issue at all—in Wellard, in particular, regarding the Wellard train station and the need apparently for land to be transferred from the Western Australian Planning Commission to the Public Transport Authority—was about half an hour ago when I had the conversation with the member for Kwinana. I have indicated to him that I am happy to hear what he has had to say to get more information and then we will certainly advise him of what is the situation, and hopefully get a successful outcome.

I completely understand the sentiments that the member expressed about the need for more telecommunications facilities to be made available. It is certainly the case that more and more people are using mobile phone coverage, given that smart phones have a greater need for the amount of coverage provided, as well as iPads, tablets and so on. The growth in that area has really been exponential in recent years and it is putting pressure on telecommunications companies to provide more of these facilities. I welcome the general sentiments the member for Kwinana has expressed. The last grievance about these sorts of issues, I remember, came from the member for Mandurah towards the end of last year. He communicated the concerns and really the opposition of residents in, I think, the Dawesville area. They were expressing opposition to the location of a telecommunications tower because of health risk concerns and so on. I face that issue in my own electorate as well. However, the reality is that the electromagnetic emissions from these facilities are generally one per cent or less than the maximum permissible level as determined by the Australian Radiation Protection and Nuclear Safety Authority.

It is acknowledged that there is a need for more of these facilities. That is reflected in the fact that the Department of Planning will be undertaking a review of the state planning policy on telecommunications facilities. I certainly hope that will occur this year because situations arise in local government planning schemes whereby undue restrictions are placed on where these facilities can be located. They do not reflect contemporary requirements and they are not based on any real scientific analysis at all. I know that is not exactly what the member for Kwinana raised, but I think it is worth putting this issue in that context. In relation to the desire for Telstra and other companies to establish a base station on the Wellard train station site, which is no doubt under the authority, or the management at least, of the Public Transport Authority, I will certainly investigate why the transfer of land has not been able to occur to this point, if that is exactly what the situation is. I will try to ensure that we get a satisfactory outcome as soon as possible so that what the local community is seeking to have achieved will be achieved in the shortest possible time.

UNDERGROUND POWER — CHURCHLANDS ELECTORATE

Grievance

MR S.K. L'ESTRANGE (Churchlands) [9.33 am]: My grievance is to the Minister for Energy and I thank him for responding today to this grievance. It concerns the lack of underground power in parts of Floreat, Wembley and West Leederville in my electorate of Churchlands. The state underground power program, known as SUPP, was introduced in response to the damage and widespread blackouts caused by storms in Perth and its surrounds in May 1994. A subsequent inquiry found that 80 per cent of the damage to powerlines in the Perth metropolitan area was caused by falling trees and that this could have been averted through undergrounding powerlines. As a result, the government initiated a pilot program from October 1996 to March 1999 designed to trial the installation of underground power in certain suburbs.

The Town of Cambridge was one of the first councils to take part in this pilot program, involving 1 166 properties in a portion of central Wembley. A satisfaction survey undertaken following completion of the project indicated a 97 per cent "extremely satisfied" or "satisfied" rating from property owners with their underground power. Given this extremely positive feedback, the Town of Cambridge has actively pursued additional opportunities to have all its suburbs enjoy the benefits of underground power. The Town of Cambridge

successfully applied for funding in round 2a and round 3 of SUPP that resulted in properties in Wembley, West Leederville and City Beach receiving underground power.

Despite its enthusiasm for the project and determination that all residents would benefit from underground power, recent applications by the Town of Cambridge have not been successful. Two proposals for SUPP funding in 2005 for the south Floreat–Cambridge Street precinct and the north Floreat–Cambridge Street precinct were unsuccessful. In 2010, the town made an application for round 5 funding but once again was unsuccessful. In total, 7 300 properties, or 70 per cent, of the Town of Cambridge currently benefit from underground power. Approximately 3 200 properties, or 30 per cent, however, are still waiting to have their power undergrounded. Pockets of houses in Floreat, Wembley and West Leederville remain without underground power, and they desperately would like to enjoy the same benefits as their neighbours. SUPP is clearly a highly successful and sought-after initiative that has benefited many thousands of residents across Perth. It is perhaps a victim of its own success; it is because underground power provides a clear benefit to households that so many people want it.

The Western Australian Economic Regulation Authority's final report "Inquiry into State Underground Power Program Cost Benefit Study" of 30 September 2011 found that —

> … it has been estimated that to date the SUPP has resulted in a positive total net present value … in the order of $525 million.

As a result of undergrounding power, Western Power benefits from reduced costs associated with operating and maintaining its powerlines as well as the costs of power outages. Operation and maintenance costs include storm repair costs to lines and power poles and the costs of maintaining streetscapes and verges where it is Western Power's responsibility to do so. The ERA's report found many benefits to individual ratepayers when they obtain underground power—namely, more reliable electricity services as a result of fewer outages, better quality electricity is supplied, improved amenity value, safer street lighting and reduced vegetation management costs.

The Town of Cambridge has been actively investigating different options to enable it to provide underground power to the remaining 30 per cent of households as soon as feasible, given the funding restrictions on the government-funded SUPP. I have recently discussed this matter with the Mayor of the Town of Cambridge, Mr Simon Withers. Mayor Withers has recommended, through me to the minister, a trial to help the remaining 30 per cent of homes in the Town of Cambridge obtain underground power as soon as feasible. In the mayor's recommendation, the state government will fund only 25 per cent of the cost to underground power to the remaining properties in the Town of Cambridge, and the Town of Cambridge will fund the remaining 75 per cent. It will be a matter for the Town of Cambridge to reach an agreement with affected property owners as to how much each will contribute to the 75 per cent costs for the underground power project trial.

The standard funding model for SUPP projects is for the state government to fund 25 per cent of the cost of each round, Western Power to fund 25 per cent and the local government to fund 50 per cent. Given that Western Power is a state government–owned corporation, in essence, the state government meets 50 per cent of the cost to provide underground power to residential homes in the state. Under the mayor's recommended trial, the state government will provide only 25 per cent of the funding costs—a 50 per cent reduction from the standard SUPP funding model, and certainly a substantial saving to the taxpayer.

The Town of Cambridge requests that the Minister for Energy favourably consider its recommended trial scheme. The town acknowledges the demand placed on the state government due to the significant popularity of SUPP, but believes this trial project could offer other local governments a possible path towards undergrounding more properties within their council boundaries whilst removing a significant portion of the financial burden from the state government. In proposing this trial, the Town of Cambridge will also not be an applicant for the next round of SUPP funding. In so doing, the Town of Cambridge will make room for other local governments that do not have the financial capacity to fund part of the undergrounding program to apply for inclusion in SUPP. I have had several discussions with the Mayor of the Town of Cambridge in an effort to find a solution to the undergrounding of power in parts of Floreat, Wembley and West Leederville. I believe that the mayor has provided the government with a worthwhile course of action, and both the mayor and I believe this recommended trial would be a success.

DR M.D. NAHAN (Riverton — Minister for Energy) [9.39 am]: I thank the member for Churchlands for the grievance. This is an issue that I have had a lot to do with as a local member and as the Minister for Energy. The state underground power program is extremely popular. It assists local authorities to convert overhead electricity distribution networks to underground systems. As mentioned in the grievance, the program has been in place since 1996, first as a trial, and, I think, we are now into the fifth program. The Town of Cambridge was one of the first local authorities to participate in the program and has had three projects funded. Since the program began, 78 projects have been completed, providing underground power to about 80 000 properties. The program, together with changes to the planning rules in 1992, which required power in all new subdivisions to be

undergrounded, has led to just over 50 per cent of houses in the Perth metropolitan area having underground power. This is easily the largest of any urban area in Australia. Changes to the planning rules have played the major role in this, but SUPP has led to about 10 per cent of the distribution network being underground. It is a big program.

Since 1999–2000, the state government and Western Power have each contributed, as the member mentioned, 25 per cent of the cost of projects. In effect, the state pays 50 per cent and participating local governments provide the remaining 50 per cent. The program is very popular with local governments and the project is oversubscribed, with only around 10 per cent of nominated projects being funded. This is why several proposals from the Town of Cambridge have been unsuccessful. The same thing is occurring in my electorate, as it does, I suppose, in the electorates of every member of Parliament. I might add that some local governments levy the 50 per cent contribution on to homeowners and some meet it in full. Some local governments also give a discount to pensioners and retired people. There is a range of ways in which local governments collect their 50 per cent.

The evaluation and selection of nominated proposals is an independent process conducted by a program steering committee, comprising representatives from the Department of Finance, the Public Utilities Office, Western Power and the Western Australian Local Government Association. Proposals are assessed against objective criteria that are publicly available. The process is overseen by an independent probity auditor. This is necessary because the program is oversubscribed.

I thank the Town of Cambridge for the offer, it is innovative and exactly the type of action we want from local governments; it has seen a problem and, rather than coming out with a begging bowl, it has come out with some ideas—along with the begging bowl sometimes! The offer is for a trial project whereby the Town of Cambridge would make a 75 per cent contribution towards project costs. Under the current arrangements, Western Power may undertake underground power projects outside of the program, in addition to the program, if a local authority is willing to pay the full cost. I have been advised that there is currently a project in Shenton Park that is operating under this arrangement. The City of Subiaco is funding the full cost for Western Power to install underground power. I have been told—I cannot verify this—that the City of Subiaco has done this for some time and as a result virtually all of its area has underground power. The Town of Cambridge can look at that. The same team that Western Power has undergrounding other areas as part of this program undertake that undergrounding work at cost reimbursement from the city. In the 2013–14 budget process, the state government approved $30 million to complete round 5, which is underway, and commence round 6 of the program. This comprises $10 million in each of the years 2014–15, 2015–16 and 2016–17.

The member mentioned that the Economic Regulation Authority inquiry into SUPP identified a large gain. This program is exceedingly popular with many people. There has been a problem in the past when the program has expanded into areas that are not as wealthy as the Town of Cambridge, or Subiaco, and some people in the area have loved the program and some have struggled to pay for it. I have been involved as a local member with that issue. How can one help people who cannot afford the program or are not interested in what SUPP can provide for them? The ERA recommended there be a differential levy, with higher valued properties paying more than lower valued properties. I do not know how that can work because an area is not necessarily homogeneous. In the Town of Cambridge there are some properties worth $3 million and some—well, very few—valued at less than $1 million, but in other areas there is huge variety. In Shelley, there are houses worth $3 million at one end of the suburb and $700 000 at the other end. I have asked the Public Utilities Office to look at that. Personally, I am dubious as to whether it can be implemented at all, but I wait for the report. My inclination is—I have not got that report—that we will just go on with the program as it is. As for the member's idea about cities bidding to put a bit more money into the program to expand it, I am open to those ideas. I have actually asked the Public Utilities Office to incorporate those views, but if it were put out it would be open to all cities to respond. I congratulate the Town of Cambridge for coming up with this innovative idea. I thank the member again for the grievance.

BROOME BOATING FACILITY

Grievance

MS J. FARRER (Kimberley) [9.45 am]: My grievance is to the Minister for Transport about the Broome boating facility. The Broome community is very engaged with and reliant upon the ocean and a range of maritime activities. Local people love to fish and recreate on the ocean with family and friends. Broome has one of the highest numbers of boat owners in Western Australia. Driving around the streets of Broome, many houses with boats in their front yards can be seen. On the weekends, the boat ramps are packed with four-wheel drives with trailers carrying boats. Furthermore, Broome has a vibrant and exciting tourism industry with many charter operators and tourists bringing their boats to Broome. The existing boat ramps are dangerous for people, bystanders, cars and boats. The boat ramps are ad hoc constructions, subject to very high tides and adverse weather conditions. The boat ramps are in proximity to rocks, and box jellyfish often congregate in the waters

surrounding them. Weather conditions have resulted in countless vehicles and boats being damaged or lost. It has also resulted in many injuries, some serious, to locals and tourists alike.

On 11 February, I met with members of the Broome Fishing Club who told me some shocking stories of injuries and damage to property. I have photos from members of the fishing club of cars lost in the ocean and boats washed up on rocks as a result of inadequate boating facilities in Broome. I will hold them up to show the house and present them to be tabled. They are images of vehicles lost in the sea because of the high tides, of people trying to salvage their boats and other damage; also images of injuries to different people. These are images of some of the people from the Broome Fishing Club's experiences.

The local community have worked hard on a Broome boating facility plan for the last 20 years. This plan was supported and promised by the Barnett government in 2010. It involved the construction of a proper boating facility at a cost of $47 million at Roebuck Bay alongside the port. The plan was committed to by the Barnett government before the 2013 election and, in fact, announced as one of many promises for Broome during the election campaign. Both myself and the Broome community were shocked and disappointed when the government cancelled the project and withdrew the $47 million in December last year. This was a terrible blow to Broome and the local tourism and fishing communities who had tried so hard and worked for so long on this project.

I call on the Minister for Transport to honour his promise and reinstate the funding for this facility that was so cruelly torn away in December 2013. Furthermore, if the minister is not prepared to do that, can he please advise my community of a way forward and what he plans to do to prevent injuries occurring on a weekly basis. I will continue to campaign for my community. Thank you.

Tabling of Paper

Mr D.A. TEMPLEMAN: I think the member was going to table something.

[The paper was tabled for the information of members.]

Grievance Resumed

MR C.J. BARNETT (Cottesloe — Minister for Transport) [9.49 am]: This may be my only role as Minister for Transport. I was hoping to get through having achieved absolutely nothing!

I thank the member for Kimberley for raising this important issue. I absolutely agree with her that the use and enjoyment of the marine environment, particularly boating, is very popular throughout Western Australia but particularly in the north—and certainly in Broome. The issue has always been that it is difficult and expensive to build a safe boating facility in Broome. An allocation of $35 million was included in the 2010–11 state budget to build a new boating facility in Broome. Subsequent costs were then estimated to be $50 million or more, and probably are significantly above that now. During the 2013 state election campaign, the Liberal Party did not commit to increase funding for that facility. The National Party may well have, but the Liberal Party did not. It is not a commitment of this government.

The issue is obviously exacerbated by the 10-metre tides, the coastline itself, the lack of rock for breakwaters and indeed some issues relating to the local Aboriginal people, the Yawuru. They objected to certain sites on heritage and cultural grounds. That is all very disappointing. Other sites have been looked at in terms of the creek near the Chinatown area. Some people think that is a better option; some do not. I regret to say that at a cost of $50 million plus, this is not on the government's capital works program. Having said that, I do not deny the need for a decent boating facility in Broome for both current residents and for tourism, and for all those other purposes outlined. At the moment the state government is involved in constructing a $35 million boating harbour project at Augusta. That is probably due for completion around September—maybe a little later, but due for completion this year. We are also working with the Town of Port Hedland on a boating facility. Again there is an issue of which location might be chosen. The Environmental Protection Authority has ruled that the initially preferred site is unlikely ever to be acceptable from an environmental point of view. We are back to square one on the Port Hedland project. The government will continue, however—maybe on a different site at Port Hedland. That also is an expensive project. Once that is completed, I have some hope that we might be able to do a project in Broome. The need is not doubted, but the cost is just simply over the top. That is the problem. Unless someone can find a cheaper alternative, it is unlikely to go ahead in the immediate future. It is difficult because of not only the tidal movement, but also its exposure to cyclones and the like. It is a problem. The government has not lost interest in the project, but it is not in a position to fund it now. If the cost can be found to be reasonable, maybe it could be included in future budgets.

Other things are happening in Broome, including the involvement of the oil and gas industry. I guess in a sense historically Broome has opposed that industry having a presence there. I would have thought that might have been one very good opportunity to see not only facilities for the oil and gas industry developed, but also, maybe in conjunction, facilities developed for recreational boat users. After recent experiences, I simply do not know the attitude of Broome to those projects.

DISABILITY SERVICES AMENDMENT BILL 2014

Introduction and First Reading

Bill introduced, on motion by **Ms A.R. Mitchell (Parliamentary Secretary)**, and read a first time.

Explanatory memorandum presented by the parliamentary secretary.

Second Reading

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [9.54 am]: I move —

That the bill be now read a second time.

I am pleased to present the Disability Services Amendment Bill 2014 to the house. The Disability Services Act sets the legislative framework for the establishment and functions of the Disability Services Commission, provisions relating to the Ministerial Advisory Council on Disability, complaints mechanisms for disability services, provisions for the delivery and funding of specialist disability services, and the principles and objectives that guide service delivery for people with disability. The act also promotes an accessible and socially inclusive community through the disability access and inclusion plans framework requirements of state and local government authorities. The Disability Services Act also enables Western Australia to meet its obligations under the United Nations' Convention on the Rights of Persons with Disabilities. This government has been passionate about improving supports and services for Western Australians with disability. This commitment has been demonstrated over many years—most recently through its strong negotiation with the commonwealth in regard to national disability reform. Although Western Australia was eager to participate in the National Disability Insurance Scheme—NDIS—when it was first proposed in 2012, the government did not rush into any agreements. This measured approach was taken to ensure that Western Australia's participation in a national scheme did not disadvantage Western Australians with disability or compromise our current system—a system already regarded as the best in Australia and one that ensures that people with disability, families and carers have genuine choice and control and are at the centre of decision-making about their supports and services.

The state government was committed to retaining the strong foundations on which our existing system was built—elements such as the internationally recognised, relationship-based local area coordination program, early engagement in good planning processes, community inclusion and a strong partnership with the non-government disability services sector. On 5 August 2013, the Premier and former Prime Minister signed an agreement for disability reform in Western Australia—an agreement that will see approximately 8 400 Western Australians with disability directly benefit from the additional resources that are an inherent part of the NDIS. This is a unique agreement under which the commonwealth and Western Australian governments will contrast two approaches for the delivery of disability services in different locations. Western Australia is the only jurisdiction to have reached an agreement with the commonwealth. Western Australia will trial a state-based model alongside the national one. The agreement is for a two-year trial commencing on 1 July 2014. The commonwealth model will be implemented in the current City of Swan and the Shires of Kalamunda and Mundaring, and will be administered by the National Disability Insurance Agency. This location will be governed by the National Disability Insurance Scheme Act 2013 and its associated rules.

The state government's Western Australian model, known as WA NDIS My Way, will be implemented in both regional and metropolitan locations. It will be run by the Western Australian Disability Services Commission under state legislation. From 1 July 2014, it will be trialled in the state's lower south west region, and on 1 July 2015 the trial will be expanded to include the Cockburn–Kwinana area. The WA NDIS My Way model will adopt the eligibility provisions approved by the commonwealth in the National Disability Insurance Scheme Act 2013. WA is keen to trial a model that has minimal bureaucracy and that maintains some of the key features of WA services for people with disability who participate in the state's WA NDIS My Way trial. To enable implementation of the state's WA NDIS My Way trial, amendments to the Disability Services Act are required. The Disability Services Amendment Bill 2014 has been prepared and is presented to the house today. This bill presents minimal change to the Disability Services Act 1993 and does not alter or weaken the current principles and safeguards of the act. Amendments to the regulations will commence once the draft amendments are complete. These include the inclusion of the national standards for disability services, specification of the geographic areas for the trial sites, and adoption of appropriate NDIS rules or amendment to the rules as appropriate in the WA context.

The Disability Services Amendment Bill 2014 seeks to facilitate the trial in Western Australia of the National Disability Insurance Scheme using the state My Way model. The following specific amendments have been made. There is the insertion of a new part 4B, "Trial of disability services model". Clause 2 deals with the commencement of the bill. Sections 1 and 2 of the act will come into operation on assent. The rest of the proposed act will commence on 1 July 2014 if the assent day is before 1 July 2014 or otherwise on the day after assent, to align with the commencement of the trial.

Clause 4 provides for the insertion of a new part 4B to the Disability Services Act 1993 after part 4A. This part contains six proposed sections as follows. Proposed section 26D states that the purpose of this part is to facilitate the trial in WA of a model for providing disability services in order to enable the comparison of the model to the National Disability Insurance Scheme model. Proposed section 26E inserts new definitions to recognise the National Disability Insurance Scheme, the commonwealth National Disability Insurance Scheme Act 2013, and the trial and participants in the trial. Proposed section 26F provides for corresponding terms between the Disability Services Act 1993 and the commonwealth National Disability Insurance Scheme Act 2013 in consideration of whether a requirement of the commonwealth National Disability Insurance Scheme Act 2013 has been met in the state trial. Proposed section 26G provides for the prescription in regulation of trial areas and the time period or periods during which the trial may operate along with objectives for the trial model. These objectives of the model include providing people with disability with reasonable and necessary supports, and enabling people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports. Proposed section 26H provides the criteria that must be met before a person can participate in the trial. Proposed section 26I inserts definitions to recognise trial participant planning and support, and provides for the provision of support to participants that is reasonable and necessary in accordance with the commonwealth National Disability Insurance Scheme Act 2013.

Clause 5 amends section 56 by inserting a subsection to specifically provide for the making of regulations under the Disability Services Act 1993 for any matter for which rules can be made under the commonwealth National Disability Insurance Scheme Act 2013. Clause 6 provides for the insertion of a new section to the Disability Services Act 1993, proposed section 57A. This section allows the making of regulations that adopt the text of any published document, with intent to enable the reference to the National Disability Insurance Scheme rules as they relate to the WA trial.

This bill strengthens Western Australia's commitment to deliver quality supports and services to people with disability, their families and carers. In addition, eligibility to participate in the trial is broader than the existing eligibility requirements for the disability services. This means that Western Australians with psychosocial disability who live in the trial sites will also benefit from this bill. The introduction of this legislation marks an important milestone for Western Australia's robust disability services sector and, most importantly, for Western Australians with disability, their families and carers. Legislative Council standing order 126 applies; therefore, this amendment bill will be referred to the Standing Committee on Uniform Legislation and Statutes Review. I commend the bill to the house.

Debate adjourned, on motion by **Ms S.F. McGurk**.

MENTAL HEALTH BILL 2013

Consideration in Detail

Resumed from 27 February.

Clause 10: Objects —

Debate was adjourned after the clause had been partly considered.

Dr A.D. BUTI: We were discussing the issue of this clause before the recess, two weeks ago. Clause 10, being the objects of the legislation, should set out its whole aim with respect to dignity, and that is good. However, if we are dealing with dignity and the least possible restrictions on freedoms and rights, should there not also be a more explicit clause stating that when in doubt over any issue, the liberty of the subject is paramount in any decision regarding the interpretation of any clause? The interpretation of any clause should be construed in favour of the liberty of the subject. I am talking about only when there is doubt; in that case, things should be construed in favour of the liberty of the subject.

Ms A.R. MITCHELL: We will always rely on common law in these cases. It is no different from any other case; all those things that apply to common law would be used.

Dr A.D. BUTI: When it is said that common law will be referred to, will there be a list of cases that will be looked at? I am talking about a provision in the legislation. As we know, legislation overrides the common law in any case, so should we not make the legislation more explicit? By relying on common law, is it being said that when in doubt, common law always gives preference or construes any ambiguity in favour of the liberty of the subject? Does it or does it not? I do not think common law necessarily does that. We do not have a bill of rights in Australia, so I am not sure about common law when it comes to the freedom of people. We do not have a bill of rights; we are not the United States. Therefore, there have to be provisions in the legislation; that is why we have equal opportunity legislation. Clause 10(1) states —

> The objects of this Act are as follows —
>
> (a) to ensure people who have a mental illness are provided the best possible treatment and care —
>
> (i) with the least possible restriction of their freedom; and

(ii) with the least possible interference with their rights; and

(iii) with respect for their dignity;

What I am asking for would do no more than what that clause presumably provides, but it is still unclear when there is doubt about who gets preference. Why not make it more explicit in the legislation so that if there is any doubt when interpreting any clause of this bill, it will be construed in favour of the liberty of the subject? When it is said that common law will be referred to, will we have to go to court every time there is some doubt? I am not sure that the precedents in this matter will provide enough detail.

Ms A.R. MITCHELL: The idea of the objects of the legislation is that they are not mandatory. As we have all commented, the bill is very large, but throughout this bill there are a number of narrower clauses that are specific. I refer the member to clause 24(6), which is an example of a clause that is much more specific and mandatory. The objects are not specific and there is a reason for that; however, throughout the bill there are many clauses that give much greater clarity.

Dr A.D. BUTI: Of course reference is made to objects when interpreting a clause, otherwise there would be no need for objects. Once again, to assist and to ensure that people's freedom is not unduly interfered with, what is wrong with having a clause in the objects—the parliamentary secretary states that they are not mandatory anyway, so I am not sure there would be such resistance—so that when construing a situation where there is ambiguity or doubt in the interpretation of a clause, it will always be construed in favour of the liberty of the subject?

Ms A.R. MITCHELL: The objects of the bill have been set up this way so that it encompasses a framework that is supportive of patients at all times. As I said before, throughout the bill there are specific areas that will show the compliance and greater support that the member is looking for. Parliamentary Counsel has advised that this is the best way to go for this bill.

Clause put and passed.

Clause 11: Regard to be had to Charter —

Dr A.D. BUTI: Part 4 and this clause deal with the Charter of Mental Health Care Principles. Clause 11 states that regard should be had to the Charter of Mental Health Care Principles. When it states that "regard should be had", I presume that is not mandatory, and it is discretionary. What relevance can we really put to this clause, which is perhaps a good-feeling clause that has been inserted into this bill to try to make it look as though it is more concerned about the rights and freedoms of people who may have a mental illness than is actually the case? Put another way: is there any penalty if someone performing a function under this legislation does not have regard to the principles set out in the Charter of Mental Health Care Principles? Are there any ramifications for that person?

Ms A.R. MITCHELL: The member is correct. The Charter of Mental Health Care Principles is an aspirational document and not a mandatory document, but the member would see in clause 12 the word "must" comply and words such as that that will come up throughout the bill. It is very difficult to have set standards in the words that are being used in the charter. We are talking about dignity, passion—things that are not necessarily measurable—so throughout the bill there are ways that once again this must be adhered to.

Clause put and passed.

Clause 12: Compliance with Charter by mental health services —

Dr A.D. BUTI: As the parliamentary secretary stated, clause 12 has a greater obligation attached to it than clause 11. Clause 12(2) states that a mental health service "must"—which means that it is mandatory—make every effort to comply with the Charter of Mental Health Care Principles when providing treatment, care and support for patients. If it is mandatory and that is not complied with, what are the ramifications? If there are no ramifications, then the mandatory threshold of this clause means nothing.

Ms A.R. MITCHELL: The words "must make every effort to comply" mean that failure to comply with the charter can result in a complaint to the Health and Disability Services Complaints Office, and then it will have to act on that.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Determining capacity to make decisions —

Ms A.R. MITCHELL: I move —

Page 17, line 22 — To insert after "if" —

another person who is performing a function under this Act that requires that other person to determine that capacity is satisfied that

There are proposed amendments for clauses 15, 18 and 25, and because there is an amendment proposed for clause 25, it is important to apply those principles in clause 15 and subsequently clause 18. However, I will talk about clause 15 first. Because we are proposing to take out the other section of clause 25, there was a need to strengthen the capacity of clause 15. That is the basis of this amendment.

Amendment put and passed.

Ms A.R. MITCHELL: I move—

Page 17, after line 28 — To insert —

(ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose of making the decision; and

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 16 and 17 put and passed.

Clause 18: Capacity to make treatment decision —

Ms A.R. MITCHELL — by leave: I move —

Page 19, line 2 — To delete "does not have" and substitute —

has

Page 19, line 3 — To delete "unless" and substitute —

if another person who is performing a function under this Act that requires that other person to determine that capacity is satisfied that

Page 19, after line 10 — To insert —

(ca) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purpose of making the treatment decision; and

These amendments follow on from what was done in clause 15. It is important to strengthen the capacity of people to make treatment decisions and more surety is being given to patients, carers and families with these amendments.

Dr A.D. BUTI: I seek some clarification, Mr Acting Speaker. If I want to speak against an amendment but not necessarily vote against an amendment, am I able to do so? I wanted to speak about the other amendment. Actually, I do want to vote against the amendment.

The ACTING SPEAKER (Mr P. Abetz): You are certainly free to speak.

Dr A.D. BUTI: The parliamentary secretary has clearly set out the reason that she brought in these amendments, which is really the same as clause 15, which I wanted to speak to but, unfortunately, I did not. In a way, these amendments defeat the purpose of the good amendment that she proposes to move to clause 25. The sole requirement of clause 25 is the issue of capacity; that is, the parliamentary secretary seeks to remove "unreasonably refused treatment". That is welcome. We will talk about that when we get to clause 25. In many respects, the good of that amendment is being chipped away or ruined by the amendment that she made to clause 15, which has been passed, so it is too late for me to deal with it.

The problem we have with the parliamentary secretary's amendment to clause 18 is that it once again gives undue balance of power to the authorities over the patient. Surely the capacity of a person under clause 19, which we will deal with shortly, should refer to information provided as per clause 19 and the effect of a treatment decision, matters involved in making the treatment decision and the effects of any treatment decision. They surely are sufficient to ensure that only a person who is competent to make a decision will make the decision. The parliamentary secretary is saying that we have to weigh up the benefits. Obviously, it is easier to argue that a psychiatrist who deals with these matters on a daily basis has greater expertise in determining whether someone should be treated. That does not necessarily mean that the views of the patient are wrong; they just may be different. By saying that we have to weigh up the benefits of treatment or refusing treatment gives an undue preference to the views of the profession over the patient, which really takes away any good that the parliamentary secretary will make with the amendments she seeks to move to clause 25. Specifically, evidence of a patient's incapacity as a weighing up factor will give, as I said, undue weight to the experts because on a daily basis they assess the risks involved in treatment vis-a-vis the benefits involved in treatment and vice versa. Surely we just need to ensure that a person has the capacity to refuse treatment. Clause 18 states —

A person does not have the capacity to make a treatment decision about the provision of treatment to a patient unless the person has the capacity to —

Paragraphs (a), (b), (c) and (d) set out the criteria, as does clause 19. Surely that is enough. Why do we need this additional clause that talks about a weighing up exercise? That takes away any benefit that is accrued by the parliamentary secretary's sensible amendment to clause 25.

Ms A.R. MITCHELL: The member's concerns are noted but I assure him that this clause was drafted after a lot of discussion with the Chief Psychiatrist and other clinical advisers to get the wording right. It is there because there was concern prior to this bill being introduced that some people were treated involuntarily without good assessment. This is all part of protecting people who are placed in care as involuntary patients. It gives further weight to the capacity test that the psychiatrist needs to go through. We have discussed all that with them because, as the member knows, this has come in at a later time than the removal of the words "unreasonable refusal".

Dr A.D. BUTI: In her response, the parliamentary secretary really spoke about what I am trying to argue. Of course there has been much thinking and consideration prior to drafting this amendment. I do not question the amount of effort and time spent trying to get this bill right. As the parliamentary secretary stated earlier, we had the original clause 18 with those criteria relating to capacity. That was considered to be okay. Then the government looked at clause 25 and it thought maybe it is not okay that we have this clause that enables a person to unreasonably refuse treatment. The problem with the phrase "unreasonably refused treatment", as the parliamentary secretary knows, is that it becomes a circular argument because the psychiatrist is saying that a person should be treated. If that person refuses to be treated, obviously the psychiatrist will say it is unreasonable that they are refusing to be treated, or there is more chance the psychiatrist will say that. That phrase has been taken out but surely the parliamentary secretary saw that was a problem and she should be commended for seeking to move an amendment that deletes that provision in clause 25.

In quite a sneaky way—I am not saying that the parliamentary secretary means to be sneaky—she seeks to insert to clause 18 this issue of weighing up the benefits. People either have the capacity or they do not have the capacity. That is what clause 18, in its original form, goes to—the capacity of a person to make a decision relating to treatment. The provision was in the bill, and it included the criteria that would determine whether a person has capacity. That is sufficient. There is no need to add to this other clause that really does the work that the original clause 25 did but the parliamentary secretary decided should be amended because it would probably give undue power to the treating psychiatrist. Therefore, the amendment to clause 18 removes any benefit that the amendment to clause 25 will have.

Division

Amendments put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the ayes, with the following result —

Ayes (33)

Mr P. Abetz	Mr J.M. Francis	Mr S.K. L'Estrange	Mr J. Norberger
Mr F.A. Alban	Mrs G.J. Godfrey	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Mr B.J. Grylls	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Dr K.D. Hames	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mrs L.M. Harvey	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mr C.D. Hatton	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Mr M.J. Cowper	Mr A.P. Jacob	Mr N.W. Morton	
Ms M.J. Davies	Dr G.G. Jacobs	Dr M.D. Nahan	
Mr J.H.D. Day	Mr R.F. Johnson	Mr D.C. Nalder	

Noes (16)

Dr A.D. Buti	Mr W.J. Johnston	Mr P. Papalia	Mr P.C. Tinley
Mr R.H. Cook	Mr F.M. Logan	Mr J.R. Quigley	Mr P.B. Watson
Ms J. Farrer	Mr M. McGowan	Ms M.M. Quirk	Mr B.S. Wyatt
Ms J.M. Freeman	Ms S.F. McGurk	Mrs M.H. Roberts	Mr D.A. Templeman *(Teller)*

Pairs

Mr T.R. Buswell	Mr M.P. Murray
Ms W.M. Duncan	Ms L.L. Baker
Mr G.M. Castrilli	Mr C.J. Tallentire

Amendments thus passed.

Clause, as amended, put and passed.

Clause 19: Explanation of proposed treatment must be given —

Dr A.D. BUTI — by leave: I move —

Page 19, after line 23 — To insert —

and

(d) advising that the person may refuse to consent to the admission or treatment and that, if the person does give consent, the person can withdraw consent at any time; and

(e) advising that the person may obtain independent legal and medical advice about the admission or treatment before consent is given and that the person may request assistance to obtain that advice.

Page 19, after line 23 — To insert —

and

(d) informing the person about any financial advantage that may be gained by any medical practitioner or mental health service in respect of the admission or treatment, except information about the fees and charges payable by or on behalf of the person for the admission or treatment; and

(e) informing the person about any research relationship between any medical practitioner and any mental health service that may be relevant to the admission or treatment.

Clause 19 is very important, because it deals with explanation of proposed treatment. Subclause (1) states —

Before a person is asked to make a treatment decision about the provision of treatment to a patient, the person must be provided with a clear explanation of the treatment —

(a) containing sufficient information to enable the person to make a balanced judgment about the treatment; and

(b) identifying and explaining any alternative treatment about which there is insufficient knowledge to justify it being recommended or to enable its effect to be predicted reliably; and

(c) warning the person of any risks inherent in the treatment.

That is all very fine. However, it is also very important that the person be advised of their right to obtain independent legal and medical advice. Even though one could argue that the 2011 draft of the bill was overly prescriptive in the information that needed to be provided to patients with regard to the risk of treatment, the person should also be given the right to withdraw consent to treatment at any time. People do change their minds. I am sure treating psychiatrists change their minds. If treating psychiatrists have the right to change their minds, surely the patient should also have the right to change their mind. When people are engaged in a contractual negotiation, such as buying a house, they have the right to obtain independent legal advice. However, in the case of something as fundamental to a human being as treatment for a mental illness, it is not stipulated in the bill that there is an obligation to tell the person that they have the right to obtain independent legal and medical advice. That is the reason we have moved the first amendment.

The second amendment deals with the issue of disclosure of any financial advantage that may be gained by any medical practitioner or mental health service. The references in the 2011 draft bill to requiring the treating doctor to disclose any financial interest have not been included in this bill. It is alarming that a patient will not be provided with details of any financial connection or advantage that the treating doctor may receive in respect to that person's treatment. There is also no obligation to inform the person of any research relationship that may exist between a medical practitioner and any mental health service.

Ms M.M. Quirk: I am interested in what the member for Armadale has to say and I would like him to continue.

Dr A.D. BUTI: Thank you, member for Girrawheen.

Under the guidelines and principles of the Australian Medical Association, doctors are obliged to disclose any financial interest. In academic and legal circles, there is also a requirement to disclose any financial interest. In the parliamentary profession in which we are all engaged, it is incredibly important that we disclose any financial interest. In local government, at the beginning of every council meeting, councillors are required to disclose any financial interest or conflict of interest. There is no greater conflict of interest than when a financial advantage can be obtained. We are very concerned that the obligation for the treating doctor to inform the patient of any financial advantage or financial link that they may have, or any research relationship that they may have with a mental health service, has been removed from the bill. That is the reason we have moved the second amendment.

Ms A.R. MITCHELL: I seek some clarification from the member about the amendments that he has moved. They both say "Page 19, after line 23", and then they both seek to insert paragraphs (d) and (e).

Dr A.D. Buti: I have just noticed that. I might seek some clarification from the Clerk.

The ACTING SPEAKER (Mr P. Abetz): I understand that if both amendments are successful, the numbering of the last two paragraphs would need to be modified. That is just a clerical matter, so we will treat the amendments in that way.

Dr A.D. BUTI: Obviously there is confusion because the clause has not yet been amended. The parliamentary secretary could treat the amendments as four paragraphs to be added to line 23 or she could accept only part of them. However, she is probably not going to accept any part of them, so it will not really make much difference.

Ms A.R. MITCHELL: I thank the member. The most important aspect of this Mental Health Bill is that people with a mental illness should not be treated any differently from people being treated for any other medical procedure. Agreeing to the member's amendments on giving legal advice and things like that will actually make mental health patients different from other patients with a physical illness.

Dr A.D. Buti: They are different.

Ms A.R. MITCHELL: No. Mental illness is an illness. It is not different. This is part of the whole stigmatisation that we have often talked about in our speeches in the second reading debate. People just do not get legal advice when they go to the doctor. If I went to the doctor and he wanted to change some medication I was on from, let us say, 10 milligrams to 20 milligrams or something, it would be silly of me to go and get legal advice to see whether that was okay. It would spoil the relationship I have with my doctor. The same should apply to a mental health patient. The element of trust in that association is very important. However, clause 20(c) provides the patient with a reasonable opportunity for that to occur, if they wish. We do not believe it is essential to make it mandatory. We do not believe it is a good thing for the treatment of people with a mental illness.

I will go to the financial disclosure section, given that we are dealing with both amendments. I think every person in this chamber agrees that disclosure of information to any patient, whether it be a person with a mental illness or any other illness, is absolutely essential and should be provided by any person in that profession.

I say once again that conflicts of interest are already addressed in the professional standards and codes that guide the work of medical practitioners. I refer to the Medical Board of Australia's code of conduct for doctors in Australia. If a doctor fails to comply with these standards, it can have serious consequences for them and can result in loss of their professional registration. We therefore believe that the provisions in the member's amendments are covered because psychiatrists come under that professional code as well.

Dr A.D. BUTI: I find it quite alarming that the parliamentary secretary says that a mental health patient is just like any other patient. If I go to the doctor for an ingrown toenail, is there a chance that I will be incarcerated against my will? Of course there is not. How silly to say that a mental health patient is just like any other patient! I totally agree with the parliamentary secretary that we should not stigmatise patients. However, we do not have a bill of this size for someone who wants an ingrown toenail operation. This is a major piece of legislation. It is probably one of the most detailed pieces of legislation that will come before Parliament during this parliamentary term. The reason it is so detailed is that a mental health patient is not the same as any other patient. How absurd! Which patient goes to a doctor and may not actually go home that night? There are very few, unless they need an emergency operation. There is the chance that a mental health patient will be incarcerated and held without their will as an involuntary patient. When does a police officer pick up from the streets someone who has an ingrown toenail? Of course they do not. They will pick up someone under this bill because they may have a mental illness that may be of harm to themselves or to the community. Therefore, parliamentary secretary, please do not stand and say, "They are just like any other patient. It doesn't really matter. You go to the doctor and you have a relationship with your doctor." Of course people have a relationship with their doctor. The doctor should also have an obligation to advise a mental health patient that the consequences of treatment can be significant. Which other patient might be subject to electroconvulsive therapy or psychosurgery? I know that might be the case with some degenerative diseases, but do not, please, stand in this place and equate a mental health patient with any other patient, because they are not like any other patient. The powers provided under this bill are incredibly significant and the consequences of people subjected to an order under this bill are enormous; therefore, they should be able to receive independent legal or medical advice. That is not breaking the relationship. When I was a solicitor, my firm often told clients to go and seek other advice. That did not mean that our relationship was strained. If anything, it could build a relationship because the patient would know that the doctor was telling them to go and get independent legal or medical advice, which would be a reflection of the doctor's concern for that person. It would not break that relationship.

The parliamentary secretary talked about professional guidelines et cetera. However, I go back to the 2011 draft of the bill which contained a requirement for treating doctors to provide advice that a person may refuse to give consent et cetera, and that they may obtain independent legal and medical advice. There were also references to financial disclosure in the 2011 draft of the bill that have been removed.

The Australian Medical Association recognises the need for full disclosure of any potential conflict of interest. We have a very prescriptive bill in front of us. It needs to be prescriptive because of the consequences. Why would we not therefore include a clause that requires disclosure to a patient of any financial advantage to be gained by the doctor from providing the treatment, rather than saying that doctors can refer to some professional

guidelines? What is the opposition to having a clause in the bill, which contains 580-odd clauses, on a potential conflict of interest in gaining a financial advantage?

Dr G.G. JACOBS: I want to make a contribution, if I may, parliamentary secretary. The member for Armadale referred to the bill as prescriptive. It needs to be prescriptive, but these four subsets in the member for Armadale's amendments are overly prescriptive and full of unnecessary legalese. I do not like the member's example of an ingrown toenail. I will give a real example of a case of invasive surgery. Let us say, for instance, that on my leave I am called up to the hospital because the surgeon has left town and I am the next best thing. I find a patient on examination and history with classical appendicitis. There is already a consent mechanism, a quite prescriptive consent form. That form always has an option for a person to withdraw their consent at any time. Informing the person that I would do the operation for purely clinical reasons and to their benefit but then telling them I would get $250 from the Western Australian Country Health Service for performing the operation would be inappropriate and unnecessary. A practitioner may, for instance, be overservicing by taking out an appendix in every second person without good clinical reason, but members can be sure that there are mechanisms in the system to deal with that issue. The amendment states that the person should be informed about any financial advantage. To me, as the practitioner taking out the appendix, that is not relevant. It is actually quite insulting to the profession to suggest that, in this case, a procedure to treat mental illness—whether it be electroconvulsive therapy or psychosurgery—would be done for some financial advantage to the practitioner. We know that there are professional codes of practice and professional accreditation systems. Of course, I believe that practitioners value their professional ethics. The amendment states that a person should be informed about any research relationship. The practitioner could say, "I'm taking out your appendix because you are part of a trial. Some appendixes I leave in and others I take out, and we are doing a double-blind trial, if you like, to see whether things are better if we leave the appendix in and treat with antibiotics versus surgery." I do not believe these amendments are necessary. It does not happen in other areas of medicine. As the parliamentary secretary said, whether it be psychosurgery, ECT or an appendicectomy, we do not prescribe these things in those procedures. I believe there are already checks and balances within the profession, whether it be psychosurgery, ECT or an appendicectomy. I believe that the clause that the parliamentary secretary also referred to about sufficient time for consideration does indeed cover that possibility for people to reflect and consider whether or not they consent.

Dr A.D. BUTI: I thank the member for Eyre for his contribution. In regard to the financial advantage amendment, I do not think he has read the whole provision. If he reads the proposed amendment, he will see that it states —

> informing the person about any financial advantage that may be gained by any medical practitioner or mental health service in respect of the admission or treatment, except —

I repeat, "except" —

> information about the fees and charges payable by or on behalf of the person for the admission or treatment;

Of course everyone receives professional fees for doing an operation et cetera. I am not talking about that.

Dr G.G. Jacobs: What are you talking about?

Dr A.D. BUTI: I am talking about a financial advantage on top of that.

Dr G.G. Jacobs: Like what?

Dr A.D. BUTI: A kickback.

Dr G.G. Jacobs: A kickback?

Dr A.D. BUTI: Member for Eyre, have no doctors ever got a financial advantage by prescribing a certain drug? Has there been no case in history of medical practitioners receiving a financial advantage by prescribing a certain drug?

Dr G.G. Jacobs: So you are —

Dr A.D. BUTI: No. Is there a history of that?

Mr W.J. Johnston: The silence is the answer.

Dr A.D. BUTI: I will say no more on that.

Ms A.R. MITCHELL: I will respond to the member for Armadale's initial comments. I remind the member that this clause is about mental illness in general, not just involuntary treatment. That is why I used examples that would be across anyone with a mental illness, and not just someone in involuntary care. The other thing is that the member is right that there was a clause in the draft. It was taken out at the request of the Australian Medical Association because it felt that it was discriminatory against psychiatrists and that there was no need to duplicate the code that they already operate under.

Dr A.D. BUTI: I thank the parliamentary secretary for that clarification. It is quite interesting that it was taken out on the recommendation of the AMA, but what about the patient? There is no need to respond.

Ms A.R. Mitchell: No, I am not going to respond.

Division

Amendments put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the noes, with the following result —

Ayes (18)

Dr A.D. Buti	Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson
Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Ms J.M. Freeman	Ms S.F. McGurk	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr J.R. Quigley	Mr P.C. Tinley	

Noes (34)

Mr P. Abetz	Ms E. Evangel	Mr R.F. Johnson	Mr D.C. Nalder
Mr F.A. Alban	Mr J.M. Francis	Mr S.K. L'Estrange	Mr J. Norberger
Mr C.J. Barnett	Mrs G.J. Godfrey	Mr R.S. Love	Mr D.T. Redman
Mr I.C. Blayney	Mr B.J. Grylls	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.M. Britza	Dr K.D. Hames	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Mrs L.M. Harvey	Mr P.T. Miles	Mr T.K. Waldron
Mr M.J. Cowper	Mr C.D. Hatton	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Ms M.J. Davies	Mr A.P. Jacob	Mr N.W. Morton	
Mr J.H.D. Day	Dr G.G. Jacobs	Dr M.D. Nahan	

Pairs

Mr M.P. Murray	Mr T.R. Buswell
Mr P. Papalia	Ms W.M. Duncan
Ms L.L. Baker	Mr G.M. Castrilli

Amendments thus negatived.

Clause put and passed.

Clauses 20 to 24 put and passed.

Clause 25: Criteria for involuntary treatment order —

Dr A.D. BUTI: Thank you very much, Madam Acting Speaker.

The ACTING SPEAKER (Ms L.L. Baker): I am sorry; the parliamentary secretary just wants to query something.

Ms A.R. MITCHELL: I was under the impression that I would move the amendments in my name to clause 25 first.

The ACTING SPEAKER: The member for Armadale goes first; his amendment is two lines before yours.

Ms A.R. MITCHELL: I apologise, member for Armadale.

Dr A.D. BUTI: Although a lot of attention has been given to electroconvulsive therapy and psychosurgery, which we will get onto a lot later, clause 25 is, in many respects, probably the most important clause of the bill because it concerns the criteria for an involuntary treatment order. Let us be clear about this: we are talking about the criteria that will allow a person to be involuntarily subjected to treatment. In other words, a determination can be made that a person should undergo treatment, whether they consent to it or not. We have already discussed the amendment to be moved by the parliamentary secretary that will remove the words "unreasonably refused treatment", which we support, although we believe that the benefit of that has been, in many respects, minimised or completely quashed by the amendments made to clause 18, but so be it.

This is an interesting clause for a number of reasons. As I said, this is the clause that outlines the criteria for determining the involuntary detention of a patient. How we have got to this stage on this clause is interesting. It is important for me to provide some history on this clause. The former member for Bassendean, who as we know had a keen interest in mental health, highlighted some of the concerns with the criteria for involuntary patients. I want to go back to the contribution he made on 24 May 2012 about one of his constituents, Maryanne Connor. I refer to *Hansard* of 24 May 2012. I will obviously not read his whole contribution, but it is important that I read parts of it. The former member for Bassendean, Martin Whitely, stated —

> Maryanne, her mother, and her mother's cousin, Hon Paddy Embry, a former member of the Legislative Council, are in the Speaker's gallery today. I am really very concerned by the treatment that Maryanne has received from Fremantle Hospital psychiatric services, and by the operation of the Mental Health

> Review Board. I might point out that considerable effort has been made by the president of the Mental Health Review Board to prevent me making the details of this public, and I am just very thankful I have parliamentary privilege …

He further stated —

> I was invited by Maryanne and her mother, Mary—I will refer to Mary as "her mother", because it will make it a little easier with the similarities in their names—to attend a Mental Health Review Board hearing about Maryanne's involuntary patient status. I have to say that what happened at the Mental Health Review Board shocked and angered me. I thought the Mental Health Review Board was there, first and foremost, to protect patient rights, but I saw anything but that happening at that hearing.
>
> What is not in dispute is that Maryanne has a mental illness; Maryanne is a diagnosed schizophrenic. She has also been treated by a private sector psychiatrist for three years who has had her on —

He referred to certain medication. He continued —

> It is fair to say that this treatment has been arrived at after many years and a long, sad history of adverse reactions to other psychotropic medications, particularly antipsychotics. Maryanne and her mother acknowledge that Maryanne has a mental illness—that is not in dispute—and they are happy with the treatment of the private psychiatrist.

They were also happy with some other drugs that were prescribed. He continued —

> It is very relevant to this to highlight some of the history of Maryanne's treatment.

The former member for Bassendean said that she had tried a variety of medications, some of which had had major side effects on her life. He then talked about problems with other treatment that she had received.

Mr D.A. TEMPLEMAN: I am intensely listening and would like the member to continue.

Dr A.D. BUTI: I thank the member for Mandurah. What concerns us about the criteria utilised in the bill is that, unfortunately, Maryanne was admitted as an involuntary patient on the issue of damage to reputation. She had been treated over a number of years. No-one disputes that she had a mental illness. Mr Whitely went on to talk about the good news she received in 2009, when her mother found a private sector psychiatrist who prescribed a treatment regime that seemed to work for her. He then stated —

> What is relevant is that on roughly 12 March, so not that long ago, Maryanne, on the advice of a previous treating clinician, tried a drug holiday. It turns out, and it is acknowledged by Mary and Maryanne, that it may not have been successful, and there were some problems that I will outline later. It is important to note that that started on 12 March, and she was hospitalised on 23 March. On 15 March she met with her private psychiatrist, as she did every two to three weeks, and had a normal meeting and no problems were identified. Maryanne used to have fortnightly coffees with an occupational therapist, and that happened on 22 March; unbeknown to Maryanne's mother, that occupational therapist was actually a designated caseworker from Fremantle Hospital.
>
> What happened is fairly murky, but there seems to be some indication that Maryanne may have raised her voice at this coffee meeting. Maryanne denies this, and the Mental Health Review Board never heard any detailed evidence of it, which is just outrageous, and I will talk about that later on. So we have this vague notion that Maryanne had in fact raised her voice on the morning on 22 March, a Thursday morning. On the Thursday afternoon, the caseworker, an occupational therapist, reappeared with a colleague, a mental health nurse, who sat down around the kitchen table in Maryanne's mother's house, where Maryanne lives. Maryanne, it is fair to say, was uncooperative in the sense that she did not want to answer questions. When they asked her questions about her treatment, she said basically that it was none of their business. Maryanne's mother assures me that there were no raised voices, and there were no allegations that there were raised voices. She was simply, as I understand it, uncooperative and said, "Mind your own business. It has nothing to do with you," which is a normal human reaction when people are interfering in your life and you do not want it.
>
> I might point out that the occupational therapist, her caseworker, had missed many appointments—three or four appointments over the period. She was supposed to roll up every two weeks and take Maryanne for a cup of coffee. She had missed three of four appointments and had left Maryanne waiting on the front veranda and had not bothered to call to let her know that she was not coming. That all happened on the Thursday. On 23 March, the next day, at 8.30 in the evening two policemen and two mental health nurses from Fremantle Hospital appeared on Maryanne's mother's doorstep. They said that they were going to take Maryanne to the psychiatric unit of Fremantle Hospital. Maryanne's mother asked them for the paperwork. They said they had no paperwork, but they had the authority to remove Maryanne.

The ACTING SPEAKER (Ms L.L. Baker): Excuse me member, is there further information that needs to be added or have you already read this into *Hansard*?

Dr A.D. BUTI: No; in my contribution to the second reading debate I read parts of it but not to this extent.

The ACTING SPEAKER: If we already know —

Dr A.D. BUTI: Members do not; they know the basis of this but the detail that I am reading at the moment was not read into *Hansard* in my second reading debate, only parts of it were.

The ACTING SPEAKER: Continue then, member.

Dr A.D. BUTI: I quote —

> It is really important to understand what the perceived threat here was to Maryanne and why she was taken into custody. She was taken into custody because the judgement was made that there was a potential for Maryanne to damage her reputation. In other words, perhaps if she was shouting in public, it might damage her reputation. That was the only reason she was apprehended.

Et cetera, et cetera; further on, Mr Whitely discusses the criteria under the current act —

> The fifth criteria—this is the one on which the whole case hinges upon and is outlined in the Mental Health Act 1996—is the potential for "serious damage to the reputation of the person". This is why Maryanne was robbed of her liberty, drugged against her will and effectively put in jail against her wishes, against her mother's wishes and, most importantly, against the wishes of her treating psychiatrist …

I will leave it at that. The way this bill has been drafted is interesting because at first glance it appears that the criteria for involuntary patients have, in many respects, not been narrowed.

Mr D.A. TEMPLEMAN: I know that the member for Armadale was about to conclude, but he needs a bit more time. I am very interested in hearing his question that is about to come.

Dr A.D. BUTI: That is because we now have an all-encompassing clause that includes a significant risk of serious harm not only to the person with a mental illness, but also to another person. We have a situation. If I remember correctly, the parliamentary secretary did admit in her second reading speech—I stand corrected—that reputation is a factor to be considered. In any case it is in the explanatory memorandum. It goes against undertakings by the Minister for Health on the Paul Murray radio program that the issue of reputation would no longer be a criterion.

It is okay for us to damage our reputation. We can damage our reputations; I am sure we do it all the time. The public thinks we damage our reputations on a daily basis. However, that is not a criterion for an order of involuntary treatment to be instigated against any of us. What discrimination do we have here? If one is a mental health patient and they damage, or potentially damage their reputation, it is a criterion that can be used for an involuntary treatment order. For the rest of the population that is not a criterion. In the previous amendment the parliamentary secretary said that mental health patients should be treated like everyone else. They are not treated like everyone else. The member for Eyre talked about an appendix. Tell me, is a patient who goes to the doctor with appendicitis in danger of being subject to an involuntary treatment order if they shout at their treating doctor? Of course not! Of course people should be made involuntary if they are a significant risk to themselves, but not in the way that the clause is drafted—"a significant risk of serious harm to the person or to another person". If one looks at the explanatory memorandum, reputation is included as one of those possibilities. How absurd! A person might shout at someone which could damage their reputation and that would be a criterion that could lead to an involuntary treatment order.

We on this side of the house are completely opposed to the broadness of the clause because "a significant risk to the health and safety of the person or to the safety of another person" is fine, but "a significant risk of serious harm to the person or to another person" is basically a broad criterion and a catch-all criterion. This is a problem for the parliamentary secretary. She is soon to bring an amendment to remove that "the person has unreasonably refused treatment"—which is good—but the benefit of that is cancelled out by the amendments she has made to clauses 15 and 18. At first glance it appears that the criteria have been reduced, but they have not been reduced because there is this broad criterion of "a significant risk of serious harm to the person or to another person" and in the explanatory memorandum that includes reputation. That is just obscene! The first criterion of a serious risk to the health and safety of the person or safety of another person is fine. In regards to the "significant risk of serious harm", we seek to amend that provision by deleting "harm to the person or another person" and include "financial harm to the person". Therefore, I move —

> Page 23, lines 1 and 2 — To delete "harm to the person or to another person" and substitute —
>
> financial harm to the person

Ms A.R. MITCHELL: Member, I do not think any of us would dispute the fact that financial harm to the person is a risk but we do not understand why the member is just having financial harm as a risk given that, obviously,

harm can occur in so many forms and each of those can be very, very important to a patient. I will not go back through the case that the member mentioned, but I will say that for a person to become an involuntary patient there is not just one criterion to be met. They have to meet all the criteria. That means it is not just one or the other.

Dr A.D. Buti: What are they? What are the other criteria?

Ms A.R. MITCHELL: If I could just finish, member. The member referred to someone shouting in regard to this clause. Under this bill, shouting is not considered a serious issue. I am sure that a psychiatrist would experience a lot of things—I am not a psychiatrist nor have I been in that situation—but I am sure that shouting would not be classed as a serious issue. We are not sure why the member has moved to amend the clause to just "financial harm" because my understanding is that one of the worst harms that people can experience is relationship harm—the breakdown of marriages and the breakdown of relationships between parents and children. In many ways, those sorts of things are far more serious and make the return to health somewhat more difficult and it is likewise with damage to reputation. If a very sensible person who suffers from a manic phase of bipolar disease runs down St Georges Terrace naked once or on a regular basis, that is significant risk to them and their reputation. There are a number of ways that significant risk needs to be looked at and all those things will be considered in determining capacity.

Dr A.D. BUTI: I take the parliamentary secretary's point about why I would just include financial harm to the person, and that is fair enough. The point on the more important issue still remains; that criterion is a catch-all criterion. The parliamentary secretary mentioned the example of a person running naked down St Georges Terrace. More than likely, that person is in a state that would cause significant risk to the health or safety of that person or to another person. It is more than likely; it is a very high probability. That person would be caught up in the subparagraph that comes before the "significant risk of serious harm" subparagraph. The parliamentary secretary also talked about marriages. Excuse me! The divorce rate in Australia is phenomenal. Are we also, under this act, going to act as a marriage guidance authority? Unfortunately, people do damage their reputation with family members and others but that should not be a criterion for making them subject to an involuntary treatment order just because they have a mental illness. However, if a person did not have a mental illness and had damaged their relationship with someone, they would not be subject to an involuntary treatment order. Would a psychopath come under this criterion because they often damage reputations? The bully in the workplace often damages reputations too, but they will not come under an involuntary treatment order. These criteria discriminate. I asked the parliamentary secretary a question about the criteria in that I wanted her to tell me what those criteria are, and she said that shouting would not be considered damage to reputation. We actually have an example that the former member for Bassendean articulated of a person shouting, and that setting off a train of events that led to them being an involuntary admission. Where in this bill is it stated that shouting would not possibly form damage to reputation—I do not know where that is—and what are the various criteria the parliamentary secretary referred to?

Ms A.R. MITCHELL: I firstly clarify that the criteria for becoming an involuntary patient are covered under clause 25(1). I state again that to become an involuntary patient a person has to meet all of those criteria—not one part of the criteria on its own. They must all be met for that person to become an involuntary patient.

Dr A.D. Buti: If you read it, that's not true. It says "or".

Ms A.R. MITCHELL: It says "all".

Dr A.D. Buti: If it is "or", it is one or the other; it does not have to meet both.

Ms A.R. MITCHELL: No; all is all, not one or the other. I write them differently and they mean different things to me.

Ms S.F. McGurk: Or.

Ms A.R. MITCHELL: No; it is A-L-L.

The Chief Psychiatrist will develop guidelines as well, so there will not be all that specific stuff in the legislation. The wording in this bill is consistent with just about every other Australian jurisdiction as well.

Dr A.D. BUTI: Can the parliamentary secretary please articulate why the Minister for Mental Health gave a commitment on 6PR that reputation would be excluded as a criterion for an involuntary treatment order and why it is now included? It is included because it is outlined in the explanatory memorandum to the bill. Why has the minister changed her mind on the issue? She made a commitment on the Paul Murray show that reputation would no longer be a criterion for an involuntary treatment order.

Ms A.R. MITCHELL: I can only state again that one criterion will not determine involuntary treatment, and I am sure that that is how the minister wanted that to be understood.

Dr A.D. BUTI: Clause 25(1)(b) states —

that, because of the mental illness, there is —

(i) a significant risk to the health or safety of the person or to the safety of another person; or

Which means it does not have to be "also" —

(ii) a significant risk of serious harm to the person or to another person;

If someone is not covered under paragraph (b)(i), they may be picked up in the catch-all, broad-phrased subparagraph (ii). Under significant risk of serious harm to a person or another person, reputation is a criterion that can be utilised. Therefore, a person can be subject to an involuntary treatment order if they satisfy the criteria that they have a mental illness, they are at significant risk of damaging the reputation or a relationship with another person, and that person does not have capacity et cetera. On the way this legislation is written, as long as a person has a mental illness, they are considered not to have capacity, the treatment is considered to be reasonable, the person cannot be adequately provided with treatment in a way that involve less restrictions, and the only risk is a risk to reputation, that person can be made an involuntary patient. The only damage that may be forthcoming is a damaged reputation, and for that they can be made an involuntary patient. They can significantly risk damaging reputation without being a significant risk to the health and safety of their person or to that of another person. It is not that they have to satisfy subparagraphs (i) and (ii); they have satisfy only (i) or (ii).

Ms A.R. MITCHELL: I say again that the criteria for involuntary treatment order is all of clause 25(1), so paragraphs (a), (b), (c), (d) and (e). Firstly, the person must have a mental illness. I think a lot of the other situations the member for Armadale referred to such as bullying are not the same as a person having a mental illness. That is the first priority right at the start, and those other criteria come in there. It is generally understood that a person with a mental illness tends to behave out of character, so the capacity factor comes in as well. Those criteria cover all of those things and one cannot be taken in isolation.

Dr A.D. BUTI: It is understood that people need to have a mental illness under the definition; that is the problem here. Once a person has a mental illness, an involuntary treatment order can be issued if they might be in danger of damaging their reputation. That is stated in the explanatory memorandum in regards to one of the criteria. Damage to a person's reputation will not be a significant health or safety problem to the community; it obviously will not be. It may not be nice to damage a reputation, I understand that, but we do it all the time. These criteria say that if a person with mental illness damages their reputation, they can be subject to an involuntary treatment order. Being subjected to an involuntary treatment order per se is a damage to a person's reputation. If it is known to the community that a person has been subject to an involuntary treatment order, that in itself will be a damage to their reputation. I understand that there needs to be the ability to order involuntary treatment in regards to significant risks to the health and safety of the person or to the safety of another person. That is sufficient, and I should have gone with that in my amendment, but I did not. If there is a significant risk to the health and safety of the person or to the safety of another person, it surely is a significant risk of serious harm to that person or another person. Therefore, why do we need this catch-all category? Why could we not have just stayed with "a significant risk to the health or safety of the person or to the safety of another person"? I think no-one would disagree that if a person has a mental illness and they are potentially a significant risk to the health and safety of themselves or another person, an involuntary treatment order should be instigated. Why do we need to add —

(ii) a significant risk of serious harm to the person or to another person;

Can the minister please explain the difference between clauses 25(1)(b)(i) and 25(1)(b)(ii), and why they are both in the bill? I have asked the parliamentary secretary an important question.

Amendment put and negatived.

The ACTING SPEAKER (Ms L.L. Baker): I need to read a statement concerning clause 25 before we move on to the next amendment. Two members have indicated a wish to move amendments to clause 25 of the Mental Health Bill 2013. The parliamentary secretary wishes to delete lines 3 to 8 on page 23 and the member for Armadale wishes to add words immediately before the semicolon on line 8. Irrespective of the outcome of the parliamentary secretary's amendment, without action from the Chair the member for Armadale would be prevented from moving his amendment. To preserve the rights of both members as far as possible, it is my intention to put a test vote on both of the amendments, assuming that both members are still intent on moving the amendments.

Dr A.D. Buti: Just to help, Madam Acting Speaker, because of the amendments the parliamentary secretary has flagged, I will not be moving my amendments.

Ms A.R. MITCHELL — by leave: I move —

Page 23, lines 3 to 8—To delete the lines and substitute —

(c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

Page 23, lines 26 to 31—To delete the lines and substitute —

(c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

The issue of unreasonable refusal initially came about because of a review into the legislation and it seemed reasonable. However, over recent months, a number of stakeholders have had an impact on us. The Royal Australian and New Zealand College of Psychiatrists, the Western Australia Association for Mental Health and the Mental Health Law Centre approached the government and indicated that these provisions could be quite difficult and unnecessary because it would be possible for a person who has the capacity to make a treatment decision to unreasonably refuse to have treatment, and that unreasonable refusal of treatment could then instigate an involuntary order. This amendment brings this clause back to just the person's capacity, which is why we strengthened the capacity tests earlier in the bill.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 26: Referral for examination at authorised hospital or other place —

Dr A.D. BUTI: I seek a clarification from the parliamentary secretary. Clause 26(1) states —

A medical practitioner or authorised mental health practitioner …

(a) the person is in need of an involuntary treatment order; or

(b) if the person is under a community treatment order — the person is in need of an inpatient treatment order.

I assume that "community treatment order" and "inpatient treatment order" refer only to mental health patients; is that right?

Ms A.R. MITCHELL: Yes.

Clause put and passed.

Clause 27 put and passed.

Clause 28: Detention to enable person to be taken to authorised hospital or other place —

Dr A.D. BUTI: The opposition has a couple of amendments to this clause. I move —

Page 26, line 6 — To delete "or physical"

I find this clause interesting and am interested in the parliamentary secretary's explanation. Clause 28(1) refers to —

… the person's mental or physical condition, the person needs to be detained to enable the person to be taken to the authorised hospital or other place.

The answer to my question asking for clarification about clause 26 was quite clear that the involuntary treatment order or inpatient treatment order was for mental health patients only. I wonder how "physical condition" comes into play in mental health. The clause is quite clear and states that it is the "person's mental or physical condition". It does not state "and"; it states "or". As the bill reads now, a person can be detained if their physical condition requires them to be detained. I hope that is an oversight, because if it is not an oversight, it is a very new reading of authorising detaining people with a mental illness.

Ms A.R. MITCHELL: Member, the word "physical" needs to be kept in the clause, so we will not support this amendment. For example, when someone self-harms, there is a physical issue that needs to be dealt with, or it could be an eating disorder that has —

Dr A.D. Buti: The self-harming is due to the mental illness.

Ms A.R. MITCHELL: But the physical aspect needs to be considered as well.

Dr A.D. BUTI: The problem with the example the parliamentary secretary used is that the mental condition of the patient who self-harms would be sufficient to detain them. Including the words "physical condition" opens up other areas. A person may have a mental illness but not to the degree that requires detention. The treating psychiatrist might like to detain the patient and if the patient has a physical condition, under the plain reading of the legislation—we can only go by the plain reading of the legislation—if the matter came to court, the court would allow a mental health patient to be detained if it was believed that the patient's physical condition required them to be hospitalised. That is absurd. A person who self-harms has a mental illness. People are detained not because they have cut their wrist, but because of the mental illness that is causing them to do that.

It is very disappointing that the parliamentary secretary will not agree to the amendment because—let me make it clear and put it on the record—the plain reading of this clause means that if a medical practitioner is treating a mental health patient who has a physical condition, he or she can be hospitalised for that physical condition. That is absurd when the mental part of that criterion would be sufficient to detain them. This is a Mental Health Bill, not a mental and physical health bill. It is absurd that physical condition should be included, especially given the example the parliamentary secretary gave—that is, they are self-harming because of their mental condition.

Ms A.R. MITCHELL: This clause should not be read in isolation; it should be read in conjunction with other clauses. I refer to clause 25 and the referral process in clause 26. It is a combination of these together, not one in isolation. The bottom line is that there is a mental illness. A person may choose not to speak or do all sorts of other things. If they have reached a serious point in their physical condition, people who have a mental illness do different things. This clause provides an opportunity to protect and help people, which we believe is necessary for this legislation.

Dr A.D. BUTI: Exactly. It should be read in conjunction with other clauses; that is why this clause is nonsensical. Clause 26 refers to involuntary treatment order et cetera for a mental health patient. It is the mental health that is the trigger for the detention. There is no need to have the physical condition. Its inclusion is simply broadening the criteria. It is an absurd clause for the parliamentary secretary to continue to argue for. It is mental health that triggers a person's treatment under this bill, not their physical condition.

Ms A.R. MITCHELL: This is about referring a patient, rather than detaining. It is the referring, and then those other things come in as well.

Dr A.D. BUTI: "To enable the person to be taken to the authorised hospital or other place" is detention, not referral. They are actually being taken somewhere. As the parliamentary secretary said, it has to be read in conjunction with other clauses of the bill. The plain reading of this clause is that the person could be detained. It has even got the word "detained" in the paragraph. It states "the person needs to be detained to enable the person to be taken to the authorised hospital or other place". I would imagine the plain reading of "detained" means that a person is detained. "Detained" means detained. Under the reading of this clause, they can be detained because of their physical condition, even though we are dealing with mental illness. May I add that a person can be detained "under orders made under this section for a continuous period of more than 72 hours"? The more I think about it, it is absurd that the parliamentary secretary is remaining stubborn about the opposition's very reasonable amendment to remove the word "physical". The plain reading of this clause is that someone who has a mental illness, who has a physical condition, can be detained for up to 72 hours. That is absurd! Why will the parliamentary secretary not remove "physical condition"? This is about mental illness—not about physical condition.

[Quorum formed.]

Dr A.D. BUTI: I have got to go back to this clause, because I do not understand why the government would be so stubborn and so not open to a reasonable suggestion. All the opposition is seeking is to delete the words "or physical". As it currently stands, it is clear under clause 28(1) that a medical practitioner can order someone with a physical condition to be detained. This is a mental health bill. Mental health is what it is all about. That paragraph refers to the person's mental condition. There is no problem there. It is obvious. We are talking about mental illness. "Mental condition" is appropriate. "Physical condition" does not need to be included because the plain reading of this clause is reference to the person's mental or physical condition. It is not mental and physical condition; it is mental or physical condition. It means that someone who has a mental illness can be discriminated to the extent that they can be detained, and under subclause (3), for up to 72 hours if they have a physical condition. That is absurd. We are talking about mental illness. There are already enough clauses in this bill to take away a person's freedom and liberty, and another possible criterion is being added of "physical condition". The parliamentary secretary has not been able to show me an example in which just having "mental condition" would not suffice. She raised the example of self-harm. People self-harm because they have a mental condition. The mental condition is enough. It will trigger the use of that clause. Will the parliamentary secretary tell me where someone's physical condition, not their mental condition, will necessitate them to be detained for up to 72 hours for treatment? If the parliamentary secretary cannot, she should agree to our amendment.

Ms A.R. MITCHELL: The two conditions are required. Let us come back to the diagnosis of a mental illness. If a GP suspects that someone is in need of assessment, that person is referred to a psychiatrist for that assessment. While that assessment takes place, they may need to be held for different reasons. After that assessment, the person may be free to go. It does not necessarily mean that they will automatically become an involuntary patient. We are talking about a referral process, which means that during the time the person is at an authorised hospital with the person who carries out the assessment, they may be kept there for their safety.

Dr A.D. BUTI: The parliamentary secretary still has not answered my question. In her response, she spoke about a person's mental illness. That is what we are talking about—a person's mental condition. That is the trigger or the criteria for which that person can be detained. They can be detained for up to 72 hours—three days. Why would the parliamentary secretary allow someone to be detained because of their physical condition? They may

have a mental illness but a plain reading of this clause suggests that a person could have a mental problem at that time that does not require them to be detained but because they have a physical condition that might require hospital treatment, they can be detained for up to 72 hours. The parliamentary secretary may say that they could refuse treatment for a physical condition because of a mental problem. They should be detained because of a mental condition not because of a physical condition. They should be detained because they will not accept treatment. Their mental illness should be the trigger under this bill, not their physical condition.

The way the clause is written, a person can be detained because of their mental or physical condition, not their mental and physical condition. A person does not have to satisfy a current mental condition to be detained for up to 72 hours; they just have to show that they have a mental illness that may not require treatment at that time but because they have a physical condition that may require treatment, they can be detained for up to 72 hours. The parliamentary secretary's self-harm example, which is the only example she has been able to utilise—I have invited her to provide me with other examples, which she has not been able to do—is the result of a mental condition. One self-harms because of a mental problem. That is sufficient to detain a person. They should not be detained because of a physical problem.

Ms A.R. MITCHELL: I gave other examples of physical problems that could determine whether a person is detained. I say again that this is done in context. If a GP refers someone for an assessment, sometimes the capacity to assess their mental illness has not occurred either, so that process has to be gone through before someone can be detained. We have that to consider as well. It is hard to come up with examples but if someone arrives at a GP's clinic and they have done themselves some serious harm, whether it is a case of not eating or something else, they may choose not to speak. They have not been assessed as to their capacity. We cannot assume that mental illness is the cause of their problems—it is associated—otherwise they will be victimised. They have to be assessed. If the person has not been receiving treatment, the most obvious sign may be physical; therefore, we cannot rule it out.

Mr W.J. JOHNSTON: I want to clarify the parliamentary secretary's answer. Would it not be easier to just refer to the mental state? Is the parliamentary secretary saying that the physical characteristics of a person—she gave the example of someone not eating—are symptoms of the underlying mental problem? If the practitioner did not have a view that there was a mental problem, they would not be able to use the Mental Health Act to take action because there is no belief that there is a problem with that person's mental health. There has to be a connection. Instead of using the word "or", why does the clause not have the words "mental health" or "mental health and physical health"? If we use the word "or", the Mental Health Act will be used when it does not apply. I suggest that the parliamentary secretary go back and read the objectives of the act, which she and I had a conversation about the other day. The act is solely focused on mental health. How can we use an act for a matter that is not covered by its purpose? It does not seem to work.

If the parliamentary secretary is saying that a person turns up and looks like they are not eating properly and it is determined that that is the symptom of a potential mental health problem, there still has to be a potential mental health problem, otherwise the Mental Health Act does not apply in the first place. When the doctor gets sued, he will not be able to use the Mental Health Act to protect himself because there is no connection to the Mental Health Act. The parliamentary secretary needs to go back and look at the purpose of the act. It does not seem to help anybody to have the provision written in the way that it is written, unless the parliamentary secretary can explain how a doctor does not believe someone has a mental health problem but believes they have a serious physical problem. I do not see how that could then possibly found the action because this act is solely related to mental health problems. If there is not a mental health problem, the act itself does not apply and we go back to the purpose of the bill. I ask the parliamentary secretary to give a circumstance in which a physical symptom was seen and how that physical symptom, which was not evidence of a mental health issue, could be used to found action under an act that is solely related to mental health. If she can, I think the member for Armadale might be assisted.

Ms A.R. MITCHELL: We are all saying the same thing. Sometimes the mental illness becomes evident by physical conditions.

Dr A.D. Buti: That is the criteria.

Ms A.R. MITCHELL: We are talking about a referral. Referring a person sometimes means that people are held. We are talking about an examination by a psychiatrist. At that time mental illness may not be obvious. The physical condition of someone with severe depression, for example, might be related to weight loss, which is the first trigger point.

Mr W.J. Johnston: That's a symptom, isn't it? It's not the illness; it's the symptom.

Ms A.R. MITCHELL: We are only talking about the referral to be examined. That is the difference. We have that time in between the person being referred and the examination.

Mr W.J. JOHNSTON: I thank the parliamentary secretary for that response. It was very interesting, but, unfortunately, it did not relate to the question I asked. I would appreciate it if she could go back to the point I am

making. If she is saying that the physical characteristics are obvious when the patient comes in and they are symptoms of a potential mental illness, I understand that, but then we do not need the word "or". She is saying that these are the symptoms of the potential mental health illness. If someone is seeking treatment for their symptoms, which are physical characteristics, not a mental illness, this legislation does not apply. The treating physician will not have access to these provisions because the legislation itself cannot be used. The powers under this bill can be used only within the scope of the bill, and the scope of the bill is mental illness.

Let us get back to the question that I am asking rather than the question the parliamentary secretary answered. Can the parliamentary secretary explain how a medical practitioner will have access to the referral and detention et cetera under this provision for a physical illness when the doctor does not suspect a mental health illness?

If there is no mental health illness, they do not have the power to use this provision. They have the power only if there is a mental health illness. Does the parliamentary secretary understand the point I am making? They can access the power that we are talking about only if they meet all the rules for the coverage of this provision. If I go to a doctor with a broken arm, and that is my symptom, the doctor cannot detain me for 72 hours, because he does not have a suspicion that I have a mental illness, and, without a mental illness, the powers under this bill do not apply. I therefore do not understand how the word "or" is of benefit, because there needs to be a connection back to mental illness. The parliamentary secretary needs to explain how a person without a mental illness is covered by this provision of the bill. If I went to a doctor's surgery with significant weight loss, and the doctor did not think that was a symptom of an underlying mental health problem, the doctor would not have the power to refer me under this provision for an assessment, because there is no connection to the powers that are contained in the bill. Therefore, unless we can overcome that difficulty, we will keep going around in circles. To assist in dealing with what has been raised by the member for Armadale, the parliamentary secretary needs to explain how this power can be exercised in the absence of a preliminary diagnosis, or whatever we want to call it, of mental illness. I do not see how this power can be used for anybody, other than in the context of the provisions contained in the bill.

Ms A.R. MITCHELL: I am sorry the member was not here during some of the earlier discussion about other clauses of the bill, because they should be read in conjunction with each other.

Mr W.J. Johnston: That is right. That is exactly what I am saying.

Ms A.R. MITCHELL: Thank you, member. I am trying to finish my response. When a person presents to a general practitioner, there is no assessment of their mental health condition at that stage. That is done by a psychiatrist. But if there is reason to think that there may be a mental health condition, the person's physical condition can be used for the referral for the examination to determine mental capacity.

Mr W.J. JOHNSTON: The parliamentary secretary has said that a referral can take place only if there is a suspicion of a mental illness. That is exactly the point that the member for Armadale and I are making. I agree with the parliamentary secretary that we need to read the whole bill; of course we do. I appreciate the briefing that I received from the member for Armadale and Hon Stephen Dawson, and I have read through not the whole bill but many parts of the bill, and I have concerns about a number of issues, some of which I raised the other day. I missed the debate on clause 10, unfortunately, because I had other issues to deal with. But let us get back to the point. The parliamentary secretary has said that if the medical practitioner suspects that the physical characteristics of the person are a symptom of an underlying mental health issue, the medical practitioner can take action. I agree with that, of course, because that is what this bill is about. It was not us who said that a referral can be made based solely on the physical presentation. We should use terminology that makes it clear what the bill actually says. It is not about physical characteristics. It is about suspicion of an underlying mental health issue. As I have said on many occasions, we should say only what we mean. We should not use words that we do not mean. If we do not need a power, we should not give it to ourselves. We should give ourselves only the powers that we need to exercise. I think that is what the member for Armadale has tried to focus on, and that is what I have tried to explain. We need to get back to the fact that there needs to be a mental health issue.

Dr G.G. JACOBS: I hope I do not confuse this issue even more, but obviously there is some concern around whether this clause deals with a mental or a physical condition. From my experience as a medical practitioner for over 25 years, there are some conditions that present to a doctor that are physical and that have not evolved into a mental health condition. There may be situational crisis or an impulsive behaviour that leads to a physical condition such as slashing the wrist and severing an artery. When that patient presents to a doctor, obviously the immediate and most life-threatening consideration is the severed artery. It is possible that there may also be a mental health condition. However, it is very likely that in the early phases that will not be identified. The most important consideration is to deal with the physical problem that is threatening the life of that person—the bleeding blood vessel—rather than detaining the person. "Detaining" is an awful word, I know, but it enables the person's mental condition in and around and behind that event to be assessed. It is not about classifying a person who has a physical condition and detaining that person for 72 hours when they do not have a diagnosed mental illness. However, it is paramount—because it is life-saving—that the person be detained for their own wellbeing because of the physical state that they are in. People might say that if a person slashes their wrist, there must be

something wrong with that person—they must have a mental condition. I can say as a medical practitioner that a person may experience a situational crisis during which, for a split second, they become impulsive and inflict physical harm on themselves. If the person presents to a medical practitioner, the primary concern is, obviously, the bleeding artery that needs to be attended to in order to save the person's life, and all the argy-bargy—excuse the expression—about does the person have a mental condition, and is it a recognised or diagnosable mental condition, will need to be answered and will be answered. However, that will occur in only some cases, not a lot of cases. I concede that perhaps we have been struggling with giving members a lot of scenarios of different physical conditions. This is not about putting people away for a physical condition that should not come under this Mental Health Bill. The primary concern is the physical state that the person is in and trying to save that person's life, and although there may be an evolving mental health condition, the medical practitioner does not have the luxury of trying to discern whether the primary diagnosis is an episode of schizophrenia for the first time, or a situational crisis or impulsive behaviour that has caused the person to be in that physical state. As I have said, there are not a lot of cases. But it should be in the bill. It is not about locking people up and throwing away the key.

Dr A.D. BUTI: I thank the member for Eyre for his further contribution. The fact, though, is he is saying that someone needs to be treated for their physical condition. If they need treatment for their physical condition, let them be treated but do not wrap it up in the Mental Health Bill. If they need emergency treatment, let them have emergency treatment, but do not wrap it up in the Mental Health Bill. I refer again to clause 28 as it is written. The phrase "physical condition" could lead to detention after 72 hours just because a person is classified as a mental health patient. The legal world is full of cases with absurd outcomes because of the way legislation has been written. I hope it is not the intention of the minister to include "physical condition" as a power to detain someone for up to 72 hours. It may not be the intention but it could happen. Unfortunately, the legal world is awash with a litany of absurd injustices due to the way legislation has been written. This can quite easily be avoided by agreeing to the amendment that I have moved.

The rationale for moving that amendment is, using the words articulated by both the member for Cannington and me, basically this is a bill about mental health and mental illness; it is not about physical conditions. A physical condition can be treated in any case. This Mental Health Bill provides the state, through its various agents, with incredible powers under which a certain subsection of our community could be caught. We should do everything possible, as the objects of the bill seek to do, to confine the power of the state over those with a mental illness who are a risk to their own safety or to the safety of the public. Unfortunately, the bill contains wider criteria.

The amendment I have moved is very simple. It is not tricky. It is not sneaky. We think we have provided rational advocacy on the reasons for the amendment. We do not believe the parliamentary secretary has provided any coherent defence of the need for "physical condition" to be included in the clause. The member for Eyre, of course, has far superior medical knowledge than anyone present in this chamber at the moment. The Deputy Premier is not in the chamber and I do not know whether the member for Eyre has greater medical expertise, but the member for Eyre's examples relate to physical conditions. A physical condition does not need to be locked in with a mental illness in the clause, but the words "or physical" will do that. That clause alone will give the great Liberal Party in this state, which claims the virtues of liberty, freedom and smaller government, increasing power. Is it not ironical that the Labor Party, which the other side always accuses of being for big government and for interfering in the lives of people, is seeking to minimise that power? We are trying to do that in a sensible way without being political about it and by proposing an amendment that we believe is necessary for the bill to achieve its objects. Those objects are to minimise interference in people's freedoms and liberties, which we are told are the virtues of the Liberal Party.

Dr G.G. JACOBS: Forgive me, parliamentary secretary. I do not want to confuse the issue and I hope to provide some clarity. The member for Armadale says that people with a physical condition should have whatever is needed to treat their physical state. That is fine. However, let us take the practical example of the young person who presents at an emergency centre with the impulsive scenario I previously sketched of the potentially life-threatening physical state of a severed radial artery in the wrist. The member for Armadale says, "Just treat it." The concern for practitioners is knowing that the physical state threatens the life of that person but that the person does not allow a treatment procedure to take place. They cannot let the patient leave the hospital. However, they may say that she or he has a mental illness, but the primary concern is the physical state that needs treatment to save a life. It needs attention, if you like, but they cannot let him or her walk out of the hospital. They need to fix it. However, the person might still be in an agitated state because of some situational crisis. We see situational crises in emergency departments every day that trigger people to either seek treatment or be brought in for treatment. They may not necessarily have a prescribed diagnosed mental condition but they need treatment for that physical state and it has to be done because it is lifesaving. The member might say that "mental condition" covers all that because someone must be wrong in the head if they have severed their artery and do not want a practitioner to fix it. The member might say that they are disturbed and in a situational crisis in their life. The member might say that "mental condition" covers all that. It is very likely that such a condition could evolve and become evident in the ensuing days. On further assessment the practitioner might find the

initial presentation of some truly prescribed acute mental illness. It might be a part of the phenomenon of an anxiety depression, or whatever, brought on by the situational crisis. Practitioners often talk about people who present there and then in their life and, really, in some cases their physical state needs to be attended to and is yet to be defined as a mental condition.

Dr A.D. BUTI: I hope the parliamentary secretary will excuse me for this exchange but it is important. In the situational example articulated by the member for Eyre, the person might have said that they had severed their wrist but could have a mental condition and would not allow the doctor to operate. If the person has slashed their wrist but does not have a mental illness, can the doctor operate on the person? I do not know. I am asking the member for Eyre to help me clarify my arguments.

Dr G.G. Jacobs: There have been cases, for instance, in which the patient is brought into the hospital comatose and there is some obvious bleeding. There is an ability—the member would know this—under some good Samaritan clause, if you like, for me to do something because I need to.

Dr A.D. BUTI: That is right—exactly. That is my point, member for Eyre. That can be done under the current law, as far as I know. Some clarification may be needed there. If that is the case, which I am sure it is, we do not need this clause in the bill because, as in the example that the member articulated, the power already exists under current laws. What the government is doing here is creating a situation because the person is a mental health patient. That is the point. This clause is saying that we can detain someone only because of their physical condition. That is what we are saying in that clause. It is all right for the parliamentary secretary to say that we need to read the bill as a whole—of course we do—but we can also read clause 28 for what it seeks to do. It refers to detention to enable a person to be taken to an authorised hospital or other place. The criterion for that is a person's mental or physical condition. As the member for Cannington articulated, to come under the purview or jurisdiction of this bill, a person must have a mental illness; otherwise, they do not come under the provisions of this bill. There is a possibility in what we may or may not be saying in this clause. We are saying that clause 28(1) applies to someone who has a mental illness and a medical practitioner believes that they should be detained for up to 72 hours because of a mental condition or a physical condition—not a mental and physical condition; a mental or physical condition. If we look at clause 28 in isolation, which really goes to how I think the member articulated it—I am sure he did not mean to articulate it in the way that I will repeat it to him—a person can therefore be detained for up to 72 hours because of a physical condition. As the member said, they may have a mental illness, but they may not. Under clause 28, they, therefore, could be detained, not because they have a mental illness, but because they have a physical condition. That is absurd. If the Liberal Party went to its members and said, "We are proposing legislation that will allow you to be detained for up to 72 hours just because you have a physical condition and you don't have a mental condition", that would be absurd. I do not think that is a correct reading of that clause, but it could be under the member's articulation or interpretation of it. However, if the interpretation or the articulation is that the person has to have a mental illness to come under the jurisdiction, and once they have that mental illness section 28(1) applies if they have a mental condition or a physical condition, that is absurd. Surely this is about mental illness, not about physical illness. As the member said, he believes that the common law, and maybe statutory law, allows surgery or medical treatment as a life-saving measure. Therefore, why do we need this physical condition? It is an encroachment of the state more than is necessary.

Division

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

Ayes (18)

Ms L.L. Baker	Mr W.J. Johnston	Ms M.M. Quirk	Mr P.B. Watson
Dr A.D. Buti	Mr D.J. Kelly	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.H. Cook	Mr F.M. Logan	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Ms J. Farrer	Mr M. McGowan	Mr C.J. Tallentire	
Ms J.M. Freeman	Ms S.F. McGurk	Mr P.C. Tinley	

Noes (30)

Mr P. Abetz	Mrs G.J. Godfrey	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr F.A. Alban	Mr B.J. Grylls	Mr R.S. Love	Mr J. Norberger
Mr C.J. Barnett	Dr K.D. Hames	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Mrs L.M. Harvey	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mr C.D. Hatton	Mr P.T. Miles	Mr T.K. Waldron
Mr M.J. Cowper	Mr A.P. Jacob	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Ms M.J. Davies	Dr G.G. Jacobs	Mr N.W. Morton	
Mr J.M. Francis	Mr R.F. Johnson	Dr M.D. Nahan	

Pairs

Mr M.P. Murray	Mr T.R. Buswell
Mr P. Papalia	Ms W.M. Duncan
Mr J.R. Quigley	Mr G.M. Castrilli

Amendment thus negatived.

Ms A.R. MITCHELL: I move —

Page 26, lines 17 and 18 — To delete the lines and substitute —

(3) The person cannot be detained under orders made under this section for a continuous period of more than —

(a) if the place where the referral is made is in a metropolitan area — 72 hours; or

(b) if the place where the referral is made is outside a metropolitan area — 144 hours.

I will explain why I have moved that amendment. We need to recognise the size of Western Australia as a state geographically. Obviously, in a place outside a metropolitan area, it may not always be easy to access the people who are able to conduct those examinations—the psychiatrists—in the same time that it would take in a metropolitan area.

Dr A.D. BUTI: I just seek clarification from the parliamentary secretary, because, as she knows, I have some amendments on the notice paper that probably mean the same thing. Is a person's psychiatrist the same as the current treating psychiatrist?

Ms A.R. Mitchell: No; that is further on.

Amendment put and passed.

Ms A.R. MITCHELL: I move —

Page 27, line 13 — To delete "the person" and substitute —

the person, the person's psychiatrist

This amendment is actually in response to an amendment that the member for Armadale had put on the notice paper. The advice from parliamentary counsel was a recommendation to put it into the legislation. As such, even though they will be referred to in further amendments as a result of an initial thought of the opposition, we have agreed with that amendment but adjusted the wording so that it was most appropriate.

Dr A.D. BUTI: Does that mean the same as "current treating psychiatrist"?

Ms A.R. Mitchell: Yes.

Amendment put and passed.

Dr A.D. BUTI: I will not move my next amendment as a result of the parliamentary secretary's amendment being passed.

Clause, as amended, put and passed.

Clauses 29 to 31 put and passed.

Clause 32: Application of this Subdivision —

Dr A.D. BUTI: I seek some clarification more than anything. This subdivision applies in relation to a voluntary patient who is admitted by an authorised hospital. That is quite easy to understand, but what about a person who has been made a voluntary inpatient due to an error or oversight? A person might volunteer for something for which they did not mean to volunteer. Will that still be covered? If an error was made in the admission of a person as a voluntary inpatient, does this subdivision continue to apply?

Ms A.R. MITCHELL: It is my understanding that, however a person has become an involuntary patient, it would apply. Whether a person is a voluntary or an involuntary patient, it applies.

Clause put and passed.

Clause 33 put and passed.

Clause 34: Person in charge of ward may order assessment —

Ms A.R. MITCHELL: I move —

Page 32, line 7 — To delete "inpatient" and substitute —

inpatient, the inpatient's psychiatrist

This amendment is in line with the amendments we made earlier.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 35 to 40 put and passed.

Clause 41: Form of referral —

Dr A.D. BUTI: This clause prescribes what information is required in a referral. Paragraph (d) on page 36 states —

> in respect of so much of that information as was obtained during the assessment by the practitioner making the referral, distinguish between —
>
> (i) the information obtained from the person …
>
> (ii) the information obtained from another person or from the person's medical record;

There are a couple of things here. Would it not also be prudent and advantageous to include a requirement for comments and information to be received from the patient's choice of current treating practitioner? Unless I am reading that clause wrong, it does not appear that that is included. If not, why would we not include comments and information from the patient's choice of current treating practitioner?

Ms A.R. MITCHELL: My understanding is that that can be considered under paragraph (d)(ii). Information obtained from another person would fit that requirement.

Dr A.D. BUTI: I suppose that is true on a literal reading of the clause, but it would perhaps be more advantageous to include reference to the current treating practitioner; however, I take the parliamentary secretary's statement on that.

Clause put and passed.

Clause 42: Providing information contained in referral to person referred —

Dr A.D. BUTI: I have an amendment to clause 42 that I will move shortly. This clause deals with the issue of providing information contained in a referral to a person referred to. I have some concerns about clause 42(2), which states —

> The practitioner cannot provide the person who is referred any information referred to in section 41(c) that was provided to the practitioner by someone other than the person on condition that the information not be provided to the person.

I understand the issue of confidentiality and that the information may not be provided if people are worried that their names will be disclosed, but surely it is open to abuse if information can be obtained from other people whose names will not be disclosed—I understand the reasons for it, but it is open to abuse. One way to get around that would be to restrict the other people—the third parties. Would it not be better if that information could be provided only by third parties who are in a personal relationship with the patient? As we all know, there is unfortunately a litany of examples of people engaging in false allegations and dissemination of false information to discredit someone. Am I being unrealistic to expect that there may be a case of a work colleague who seeks to damage the reputation of a person by providing certain information? Am I being unrealistic to say that a neighbour might provide information that could be damaging? I do not think I am being unrealistic. I understand the need for confidentiality and for names not to be disclosed, but should we not also as a safeguard restrict who those third parties can be? Surely they should be people involved in a personal relationship with the patient. They, of course, may also be involved in scuttlebutt and false allegations, but hopefully it would be restricted, and it, surely, on face value would not be open to the same opportunities of abuse as the acceptance of third party information from anyone who can remain anonymous. I have a major concern that because of the way the provision reads at the moment, we are allowing third party information to be provided confidentially that could have enormous consequences for the patient. I go back to the objects of the bill, which are to minimise interference with the rights and freedoms of the patient. If we are going to do that, why not restrict which third party information is allowed? I will wait for the parliamentary secretary's response before I move my amendment.

Ms A.R. MITCHELL: The member has covered a couple of areas and I will move around them a bit. If the member is referring to a situation that could potentially be perceived as malicious, I am sure he is aware it is an offence pursuant to the Criminal Code to procure apprehension or detention of a person not suffering from a mental illness or to unlawfully detain a person who is not mentally ill. The other side of that is that the Chief Mental Health Advocate has specific information set out in clause 358 and the regulations associated with that role are quite clear. Also, a patient can always seek access to his medical records if they are not available —

Dr A.D. Buti: They are not easily available; they remain the property of the medical practitioner—the Breen v Williams High Court decision tells us that—they are not the patient's records.

Ms A.R. MITCHELL: It is my understanding that the patient can seek to obtain those records and that can be done through the doctor, and I suppose through a legal practitioner if required.

Dr A.D. BUTI: In regards to obtaining medical records, there may be legislation that overrides Breen v Williams. There are two medical practitioners in the house who may be able to correct me, but quite clearly the

common law position is that the medical practitioner has the property of those records for the good reason that they will not be inhibited in what they write in those records. That way the doctor need not be concerned that the patient may read those records and there will be something in them that they do not want the patient to read. In regards to that, I do not think it is much of a safeguard.

The parliamentary secretary mentioned the Chief Mental Health Advocate, which is quite interesting because it goes to our amendment that I will talk about shortly. The parliamentary secretary talks about criminal conviction et cetera, but that is ex post facto. Surely, here we are trying to ensure that something wrong does not happen. There is not much joy for a person subjected to something under this Mental Health Bill, which may involve incarceration or detainment, sometimes for good reason, but sometimes as a result of information provided by a third party who seeks to damage that person. If a narrowing of the parties who can provide that third party information is not agreed to, that third party information can be provided on a confidential basis. I worked for a number of years in the academic world and I can say that many academics have engaged in false allegations against colleagues. There have been some horrendous allegations. If members think politics is hard, it ain't nothing! Go to the academic world to see what that is like. There are many false allegations made in the academic world, but there is generally a right to know who has made those allegations. In this case, these allegations can be made by anyone. I may think someone in my electorate will be my Liberal opponent in three years' time. What is one way I can damage them? I can make confidential allegations that could lead to them being classified as a mentally ill patient. That would not be good for their potential future career as a politician.

Can the parliamentary secretary not see the potential for damage in this case? It can easily be rectified by reducing the types of people who can provide third party information. The issue of criminal conviction is ex post facto; it is too late. The issue of having access to medical records is problematic because of the question of who has ownership of them. The parliamentary secretary mentioned the Chief Mental Health Advocate, so it is an opportune time for me to move our amendment to clause 42. I move —

Page 36, after line 21 — To insert —

(2A) Any information provided to the practitioner under subsection (2) must be notified to the Chief Mental Health Advocate.

As the parliamentary secretary mentioned the Chief Mental Health Advocate, surely she would agree with such an amendment.

Ms A.R. MITCHELL: The reason we have not specifically included the Chief Mental Health Advocate is that they have access to all the records anyway. They will receive that information, but we did not believe it was necessary that they be included initially.

Dr A.D. BUTI: When the parliamentary secretary says that they have access to all the records, when in the time sequence do they actually have access to those records? We are talking here about providing information contained in a referral to a person referred. Are they provided with all information regarding referral to a person who has been referred? If so, when are they provided with that information? What is the time line?

Debate adjourned, pursuant to standing orders.

ALBANY SPORTSPERSON OF THE YEAR AWARDS 2013

Statement by Member for Albany

MR P.B. WATSON (Albany) [12.50 pm]: Today, it is my pleasure to inform the house that last Friday night I attended the 2013 Albany Sportsperson of the Year Awards. This annual event is presented by the City of Albany to recognise the high achievements of local sportspeople. Junior Sportsperson of the Year was awarded to the youngest winner in the award's history—14-year-old Craig Wiggins. Competing for the first time at the Cycling Australia under-15 national road championships, Craig won the 10-kilometre individual time trial and the 39-kilometre road race. His cycling successes in 2013 also included winning four Western Australian under-15 state titles.

Senior Sportsperson of the Year was awarded to Steve Hurley. Steve had an outstanding 2013 as a lever action rifle shooter. He won the two-gun championship as well as his sixth straight three-gun championship at the Australian Lever Action Rifle Championships. He also won the New South Wales and Western Australian state open championships. This is also the fifth time he has won Senior Sportsperson of the Year, after winning four consecutive times from 2009 to 2012. Veteran Sportsperson of the Year was awarded to Adrian Shepherd. In 2013, local surf coach Adrian returned to competitive surfing for the first time in 11 years. He went on to win the over-45 grand masters and the over-50 legends divisions of the Western Australian pro am state surfing titles.

The 2013 Albany Sportsperson of the Year was awarded to Steve Hurley from a field of 15 finalists. It was an emotional win for Steve who dedicated it to his late mother. This is the second year that the awards have included an overall winner category.

THERMOMIX

Statement by Member for Balcatta

MR C.D. HATTON (Balcatta) [12.52 pm]: It is my pleasure today to talk about the cooking appliance Thermomix. On 18 January 2014, my wife and I joined the Premier in attending the official opening of the new Thermomix Australia and New Zealand head office in Balcatta. Thermomix is a revolutionary all-purpose kitchen appliance that acts as a food processor, steamer, mixer, grater and kneader. It combines the functions of more than 12 appliances, allowing it to chop, blend, mill, cook, stir, beat, juice, crush, grate, whip and steam at the push of a button. Thermomix was introduced to Australia in 2001 by managing director Grace Mazur. Grace and her husband, Witek, started from humble beginnings, working from their home garage. The business and sales success required expansion to the new Balcatta premises. To date, more than 150 000 machines have been sold nationally. Thermomix provides healthy eating choices while saving energy by cooking in one low-watt appliance. The Thermomix company is committed to changing the lives of Australians by allowing them to remove artificial colours and flavours from their cooking while saving energy.

Small business success is critical to Western Australia's economic and social wellbeing. Thermomix provides significant employment opportunities for consultants who demonstrate and sell the appliances. Across Australia and New Zealand, consultant numbers grew to 2 500 last year and are set to increase by 40 per cent this year. The new head office directly employs more than 55 staff on site. I congratulate Grace Mazur on her business development and the opening of the new Thermomix office in Balcatta. The Thermomix company is providing healthy eating choices and employment opportunities for thousands of Western Australians and Australians.

"INVISIBLE WOUNDS: NATIONAL PTSD AWARENESS DAY"

Statement by Member for Girrawheen

MS M.M. QUIRK (Girrawheen) [12.54 pm]: The Partners of Veterans Association of Western Australia wants to mark the last Friday in June of each year as "Invisible Wounds: National PTSD Awareness Day". This is an excellent idea. Post-traumatic stress disorder affects not only veterans and currently serving Australian Defence Force members, but also first responders such as police, fire and rescue personnel, casualty staff and ambulance drivers. A report by the Community Development and Justice Standing Committee on the impact of exposure to trauma on those first responders was tabled in Parliament in 2012. We await a government response to that report.

We know that the human psyche cannot be continually assaulted by trauma without there being inevitable consequences. We know that PTSD can manifest itself many months and often years after a traumatic event. It affects different people in different ways, and it is common for the symptoms of PTSD to be misinterpreted by the ill-informed and those not adequately trained to identify the symptoms and act appropriately. We know that these symptoms can include increased alcohol or drug consumption, marital breakdown, belligerent and challenging behaviours at work, night sweats, the shakes, anxiety attacks and insomnia. Repeated exposure can greatly compound the damage, which also impacts heavily on the sufferer's family. Overall, the body of knowledge on PTSD is now substantial. There is simply no excuse for it to be glossed over or ignored. We need to inform the community and give them tools to respond appropriately through psychological first aid. After all, this debilitating condition was acquired in the course of serving the community in the most stressful and dangerous of situations. I thank the association for proposing this initiative.

KINGSLEY MEN'S PROBUS CLUB — TWENTY-FIFTH ANNIVERSARY

Statement by Member for Kingsley

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [12.55 pm]: The Kingsley Men's Probus Club recently celebrated its twenty-fifth anniversary with a special luncheon at Warwick Bowling Club. The club commenced in January 1989. The club was established with 14 foundation members. One of these members, Alf Suckling, is still a member of the club and was in attendance at the anniversary. He received an honorary award at the lunch by the current president, Graham Evans. Secretary David Gould provided a history of the club over the 25 years, which brought back many memories for those in attendance. Another member, Kevin Holland, made a beautiful wooden clock as the major prize for the special raffle for the anniversary.

The Probus clubs started in Australia in 1975 and were established so that retired professional businessmen could continue to meet with like-minded individuals to keep their minds active and to enjoy the friendship of others. The Kingsley Probus club meets monthly and organises social functions. Guest speakers are scheduled for the meetings and keep the members informed on broad issues. Service to the community is not a requirement of Probus clubs, but many members are still active in this area. Bryan Lewis told me that he finds the meetings very important in his life, and enjoys hearing the speakers and meeting with the other men. Congratulations to the members of Kingsley Probus club for the wonderful service they provide to men in the area. I wish them continued success in the future.

WESTERN AUSTRALIAN RARE DISEASES DAY

Statement by Member for Kwinana

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [12.57 pm]: Last Friday, I attended the inaugural Western Australian Rare Diseases Day in Perth to celebrate International Rare Diseases Day. This event was organised by Susanna Wills-Johnson with Lesley Murphy on behalf of Rare Voices Australia, an organisation dedicated to providing a unified voice for all Australians who live with a rare disease and to raise awareness of the unique health and social issues the rare disease community face.

Approximately 1.5 million Australians are living with a rare disease. Rare diseases have a disproportionate impact on the health system relative to the number of people who are diagnosed. They also have a huge and often unacknowledged impact on the families of those who live with a rare disease. I support calls by Rare Voices Australia for Australia to join the rest of the international rare disease community by developing national and state healthcare plans and strategies. At the event, attendees heard from representatives of the Department of Health who gave a presentation on the draft Western Australian rare diseases strategy 2014–2018. I commend the government on the work undertaken thus far. As William Harvey MD stated in 1657, there is no better way —

> … to advance the proper practice of medicine than to give our minds to the discovery of the usual law of nature, by the careful investigation of cases of rarer forms of disease.

I call on all members of Parliament to join me in providing bipartisan support for public resources, research and community support for rare diseases in Australia.

BOB O'SULLIVAN — WESTERN AUSTRALIA POLICE

Statement by Member for Joondalup

MR J. NORBERGER (Joondalup) [12.58 pm]: Today I would like to publicly acknowledge an outstanding member of the Joondalup community, Mr Bob O'Sullivan. Bob is an exemplary member of the community and has recently retired from the WA Police force after serving nearly 40 years, officially retiring on Thursday, 27 February 2014. Bob's dream to be a policeman started at an early age but got off to a shaky start. After being rejected at the age of 21 for being a quarter of an inch too short, he was eventually successful nine years later, and joined the force on 8 April 1974. Bob's dedicated service took him to Halls Creek, Alice Springs, Margaret River, Wyndham, Broome and the Perth metropolitan area where he worked in a number of roles, such as constable, first class constable, traffic constable, detective senior constable, uniformed sergeant and reserve sergeant. He has had extensive involvement in education and has lectured in schools, businesses and in the area of alcohol and drug education. He has been an important part of school-based policing and Aboriginal affairs and has done considerable work for safety for seniors, Blue Light discos, Neighbourhood Watch and multicultural reference groups. Bob is a firm believer in early intervention. After spending a week conducting a field study with the Tangentyere Night Patrol, Bob spearheaded the establishment of the Kullari Patrol, which was the first initiative of its kind in Western Australia and which since its inception has increased to 20 patrols. Bob was instrumental in the inception of the first Blue Light disco for Aboriginal communities in the Dampier Peninsula and active in growing the awareness of Neighbourhood Watch and safety for seniors. Bob co-managed the implementation of strategies such as anti-theft screws on licence plates and a case study of MicroDOT Australia, which will be released in a white paper in the coming weeks. During his years of service, Bob was awarded the National Police Service Medal, the National Medal for Service, the Western Australian Police Medal and, more recently, the Human Spirit Award. Bob recently celebrated his seventieth birthday with his wife Pamela, three children, six grandchildren and other family and friends.

Sitting suspended from 1.00 to 2.00 pm

DISTINGUISHED VISITOR — MR MA

Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): Before we start question time today, I would like to welcome to Parliament today the Ambassador of the People's Republic of China, Mr Ma. Welcome to you and your delegation and to other distinguished guests.

[Applause.]

QUESTIONS WITHOUT NOTICE

MEMBER FOR VASSE — RETURN TO WORK — PREMIER'S COMMENTS

121. Mr M. McGOWAN to the Premier:

I refer to the Premier's comments in *The Sunday Times* of 9 March—I note it was the same day that the Premier accepted the member for Vasse's resignation for health reasons—in which he said, "Troy is getting better. I expect him back at work soon."

(1) Why did the Premier say that he would be back soon?

(2) Who told the Premier that he would be back soon?

Mr C.J. BARNETT replied:

(1)–(2) By that time, I think the member for Vasse was no longer in hospital. I had a view, for whatever reason, that he would probably be back at work within about two weeks or less. I was of the understanding that he was doing better. I hope he continues to do better and makes a recovery.

Mrs M.H. Roberts: How did you get to that understanding?

Mr C.J. BARNETT: Although I had not at that stage spoken directly to Troy, I did later that afternoon when he rang to tender his resignation. Obviously, I was aware that he had been in hospital and I had some feedback that he was improving, but I had not spoken directly to him. Of course, as a friend and colleague, I am concerned about his welfare.

MEMBER FOR VASSE — RETURN TO WORK — PREMIER'S COMMENTS

122. Mr M. McGOWAN to the Premier:

I have a supplementary question. Considering that the Premier had that feedback, and that it was a very important issue and he would not want to mislead the people of Western Australia on these issues, who gave him the advice that the member for Vasse would be coming back to work?

Mr C.J. BARNETT replied:

No-one gave me the advice, but on the basis that he had already been absent for two weeks and had been in hospital but was at that time out of hospital and was doing better, in my mind I thought that that probably meant another couple of weeks. Indeed, I was concerned that he did not come back to work too early.

Mr M. McGowan: Who gave you the advice?

The SPEAKER: Member!

Mr C.J. BARNETT: I remind the Leader of the Opposition that although Troy Buswell is a friend I care about very seriously, I am not his keeper, I am not a member of his family and I am not a member of the medical staff of the hospital that he was admitted to.

Mr M. McGowan: How did you come up with that answer?

Mr C.J. BARNETT: It was just an assessment that I made that he was improving.

Several members interjected.

The SPEAKER: Members!

Mr C.J. BARNETT: This line of questioning is intrusive into the privacy of the health care of a citizen of this state.

Several members interjected.

Mr C.J. BARNETT: I do not even know which hospital he was in. I think I know which Perth hospital it was, but I do not know the Sydney clinic. He and his family and, I understand, his mother requested privacy. I respect that. As I said to the Leader of the Opposition on Tuesday, if he has some accusation, he should make it because I do not know where he is going on this. If the opposition has some information that I, the police or the media do not have, please tell me.

Mr R.H. Cook: Just answer the question.

Mr C.J. BARNETT: How can I answer the question? The only advice I got of a medical nature was when I first told my friend the Deputy Premier, a doctor —

Mr P.B. Watson interjected.

The SPEAKER: Member for Albany, I call you to order for the first time. I want to hear only the Premier.

Mr C.J. BARNETT: When I was first aware that the member for Vasse had had a breakdown, I obviously had no idea how severe it was. He was going into medical care. That was on Sunday, 23 February. It was probably on the Tuesday—maybe Tuesday afternoon; I am not sure—when I had not mentioned that to anyone, including any members of my staff. I informed the Deputy Premier; I thought that was appropriate. As he is a general practitioner, I asked him if someone has a breakdown, what period of absence would normally —

Ms M.M. Quirk interjected.

Mr C.J. BARNETT: I am trying to answer the question; I cannot see why I am answering it, but I am.

The SPEAKER: Member for Girrawheen!

Mr C.J. BARNETT: I asked Dr Hames if someone has a breakdown, how long would they likely be off work. In my mind, I thought it would probably be a few days, but I did not have the details. I am not a member of his family. Correct me if I am wrong, but the Deputy Premier said that it could be four weeks. By 9 March, the member for Vasse had been away for two weeks, so two plus two makes four. In my mind, I thought it would probably be another couple of weeks. I did not want him to be under any pressure to come back to work earlier. If the Leader of the Opposition is going to get up again and he knows something that I do not, he should share it with me.

MIDLAND PUBLIC HOSPITAL

123. Mr F.A. ALBAN to the Minister for Health:

I understand that yesterday the minister visited the construction site of the new Midland Public Hospital. Could he please update the house on how this new hospital for the people in Perth's eastern suburbs is coming along?

Dr K.D. HAMES replied:

Yes, I looked at the hospital. We celebrated the 50 per cent mark of construction; in fact, as I was leaving, I was told that it was probably more like 60 per cent already. Construction is well underway. The new hospital is looking amazing. It is well on target to be completed by the time we said it would be completed and to be ready for opening towards the end of 2015. I was at the hospital with the member for Forrestfield and two upper house members. We were very impressed with the quality of the construction. As I am sure members have heard me say previously, it will replace Swan District Hospital. It will have 307 public beds, which will provide all the public health care for people in the eastern suburbs, and 60 private beds. It will be great to have in the eastern region some private hospital beds, because there have been no private beds in that area for a long time. There used to be a private hospital in the hills, but it shut down at least six or seven years ago. This hospital will once again provide the opportunity for private care.

As members know, we have contracted St John of God Health Care to run the hospital. The rest will be public beds, with free care for the public. It will be a fantastic improvement —

Mr D.J. Kelly: Will it provide a full range of services?

The SPEAKER: Member for Bassendean, if you want to ask a question, put your name down.

Dr K.D. HAMES: It will provide a full range of services at that site, as we have made clear in the past. At the other end, we are seeking expressions of interest and are in negotiations with two providers that are keen to provide the additional services of a relatively minor nature at that site.

Mr R.H. Cook: A minor nature!

Dr K.D. HAMES: They are. When I had my vasectomy, it was pretty easy. I sat up and watched it.

Mrs L.M. Harvey: Too much information!

Several members interjected.

Dr K.D. HAMES: They are of a relatively minor nature.

Mr R.H. Cook interjected.

Dr K.D. HAMES: Yours might be harder because they have to find them first!

Mr R.H. Cook: If this is the level of your care!

Dr K.D. HAMES: The hospital will provide a fantastic opportunity for children to be treated out there. It will have a separate play area for children in the waiting room. There is a separate children's ward, which is an isolated area with six beds in it, so that children who are being assessed will be separated from the adult patients. The children's ward will go from eight to 12 beds. We talked with the new children's hospital about where people are best treated and about the expansions to Joondalup Health Campus. There will be fantastic facilities for children at Fiona Stanley Hospital. This will expand the capacity for children out in the eastern suburbs, thereby taking a lot of pressure off the new Perth Children's Hospital. It is a fantastic new facility. It is great to see it going well at 50 per cent completion and we look forward to going out there when it is at 55 per cent completion.

MEMBER FOR VASSE — RETURN TO WORK — PREMIER'S COMMENTS

124. Mr M. McGOWAN to the Premier:

Again I refer to these comments in *The Sunday Times* on 9 March 2014 —

> The Premier said he had not spoken to his Treasurer since Mr Buswell took leave a fortnight ago, but was being updated on his progress. "Troy is getting better," Mr Barnett said. "I expect him back at work soon."

Did Mr Pontifex, Ms Cant or Ms Turnseck advise the Premier that the former Treasurer would return to work soon?

Mr C.J. BARNETT replied:

No, they did not, but they did keep me roughly informed on Troy's progress, although not in any detail. I am interested in how a friend is going. I have detailed the meetings that took place, but I will add to that; telephone conversations have taken place. Rachael Turnseck, the former Treasurer's chief of staff, kept my office broadly informed on how Troy was going. She said that he was out of hospital and he seemed to be doing better. That is it. I am not the sort of person, as the Leader of the Opposition is, who would inquire into someone's private health details.

MEMBER FOR VASSE — RETURN TO WORK — PREMIER'S COMMENTS

125. Mr M. McGOWAN to the Premier:

I have a supplementary question. How could the Premier be so confident that the Treasurer would return to work if he had not spoken to him or received advice from anyone who had?

Mr C.J. BARNETT replied:

I was not confident. A journalist asked me, "When is Troy coming back?" He had been away for two weeks. I knew he was out of hospital and I knew he was improving. Therefore, my guesstimate was that he would probably be back, in my view, at that stage, within two weeks. That was my diagnosis—no mystery. What does the opposition expect me to do? Does it expect me to ring his mother, his sister or his doctor? For goodness sake! The guy has had a breakdown. He is in a serious situation and I respected that, as I do today. Again, I say to the opposition —

Several members interjected.

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

Mr C.J. BARNETT: If the Leader of the Opposition has an accusation to make, make it. If he has some further information that I do not know, he should tell us.

Mr M. McGowan: We're asking you questions because it doesn't add up.

Mr C.J. BARNETT: I have answered all the opposition's questions truthfully.

Mr M. McGowan: You have not. You treat the Parliament with contempt.

Mr C.J. BARNETT: I gave a detailed briefing. Tell me what I have not answered.

Mr M. McGowan: Why did you say numerous times he was coming back to work if you had no evidence that he was?

Mr C.J. BARNETT: I give up. What a foolish thing to say. He had been away for two weeks. I had a view he would be returning; he was out of hospital. It was only after he had been absent for one week—so, obviously, I was optimistic he would come back sooner—that I made myself acting Treasurer and acting Minister for Transport because there was a need in government for that to happen. I had an expectation he would be back pretty quickly.

Several members interjected.

The SPEAKER: Member for Midland, member for West Swan and member for Armadale, I do not want to hear from you.

Mr C.J. BARNETT: I have concluded because I do not know what the opposition wants or expects me to say, but I place on the record that in my time in Parliament I have never experienced such distasteful inquiries about a member of this house—ever! I have heard members in this house ridicule —

Several members interjected.

The SPEAKER: Member for Armadale, I call you to order for the first time. Member for Cannington, I call you to order for the first time. Member for West Swan, I call you to order for the first time. Premier, can you please bring this to a conclusion.

Mr C.J. BARNETT: I have heard members in this house, some time ago, ridiculed in this house over mental health. I have heard that and it is distasteful. However, I have never ever heard members of Parliament seek information, which I do not have —

Several members interjected.

The SPEAKER: Member for Armadale, I call you to order for the second time.

Mr C.J. BARNETT: I have never ever experienced members of Parliament —

Several members interjected.

The SPEAKER: Member for Albany, I call you to order for the second time. Member for Cockburn, I call you to order for the first time. I want this question brought to a conclusion.

Mr C.J. BARNETT: I conclude with this: I have never ever in my time in this place experienced questions about the private health of a member of this house who is absent on leave because of his health. I have never ever had that. This is distasteful and unparliamentary, and maybe members opposite should consider that.

INTERNATIONAL WOMEN'S DAY

126. Ms E. EVANGEL to the Minister for Women's Interests:

Last Saturday marked International Women's Day. Could the minister please update the house on how the Liberal–National government is ensuring that women continue to have a voice in decision-making in Western Australia and can the minister advise the proportion of women in senior positions in the state public sector?

Mrs L.M. HARVEY replied:

I thank the member for Perth for the question and for her active participation in the events to celebrate International Women's Day. In this state International Women's Day is celebrated over a week, such is the level of achievement of women in Western Australia. Women make up almost half the population of Western Australia and make very critical contributions to all aspects of life in Western Australia. On International Women's Day and during the series of events that were held to celebrate the achievements of women in Western Australia last week, it is important to take note of the achievements and great strides that have been made with the participation of women at every level of life in Western Australia. Figures from the Public Sector Commission show that in the past 10 years the proportion —

Ms M.M. Quirk interjected.

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

Mrs L.M. HARVEY: Over the past 10 years the proportion of women in the public sector in this state has increased from 63 per cent to 71 —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the second time.

Mrs L.M. HARVEY: It has increased to 71.7 per cent compared with the broader WA workforce; participation of women in other sectors is 43 per cent. I was particularly pleased—I can hear that the member for Girrawheen is quite interested in this area and I acknowledge her great interest in the achievements of women in this state—that the proportion of women in the senior executive service has increased from 19.1 per cent in 2000 to 29.2 per cent in 2013. Women of extremely high calibre now occupy critical government positions as the heads of several WA government agencies, including Sharyn O'Neill, the director general of the Department of Education; Sue Murphy, CEO of the Water Corporation; Anne Nolan, who heads the Department of Finance; Jennifer Mathews, the director general of the Department of Local Government and Communities; Dr Ruth Shean, the director general of the Department of Training and Workforce Development; Stephanie Buckland, my own very capable and competent CEO of Tourism WA; and Cheryl Gwilliam, the director general of the Department of the Attorney General. We also have many outstanding women who hold key positions in government boards and committees, including Marion Fulker, Rosanna Capolingua, Erica Smyth and Kerry Sanderson. I could go on, but the point I am making is that the representation of women on government boards and committees in Western Australia has increased from 35.5 per cent in 2011 to 41.7 per cent in 2013, which exceeds the target set by the federal government of 40 per cent for women on boards by 2015. We are punching above our weight here in Western Australia and we are ahead of the game. The number of women on the boards of the 14 Western Australian government–owned corporations has jumped six percentage points in just one year to 29.1 per cent in 2013. It is really important that we acknowledge at this time the tremendous contribution of women in the public sector, the tremendous leadership contribution of women in the public sector through participation in government boards and committees and, indeed, in this chamber, and to acknowledge the efforts of all those members in the chamber who took time out on International Women's Day to celebrate the achievements of women in the networks of communities that they deal with and the achievements of women in the agencies that they participate in.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT — POLICE INVESTIGATION

127. Mr J.R. QUIGLEY to the Minister for Police:

I refer to reports in the media on Monday, 10 March that there was no evidence upon which the member for Vasse could be prosecuted for driving under the influence of alcohol in Subiaco in the early hours of the morning of Sunday, 23 February —

Point of Order

Mr C.J. BARNETT: While allegations may be made, I do not think there is any establishment yet—there may be—that the member for Vasse was driving under the influence of alcohol.

The SPEAKER: Okay. I will not accept that as a point of order. The member can ask his question.

Questions without Notice Resumed

Mr J.R. QUIGLEY: Thank you. I will just start again, if I may, Mr Speaker.

I refer to reports in the media on Monday, 10 March that there was no evidence upon which the member for Vasse could be prosecuted for driving under the influence of alcohol in Subiaco in the early hours of the morning of Sunday, 23 February. In view of the new evidence, firstly, witnesses who observed the member for Vasse consuming alcohol over several hours, and a witness who observed him alight from his car in Roberts Road and who described him as appearing to be intoxicated; secondly —

Several members interjected.

The SPEAKER: Member for Wanneroo, I call you to order for the first time. Member for Murray–Wellington, I call you to order for the first time. This is a very long question, member for Butler. Continue.

Mr J.R. QUIGLEY: I will just have to start again, having been interrupted, Mr Speaker!

The second new element of fresh evidence is the multiple crashes that the vehicle may have been involved in, indicating an incapacity to properly control the vehicle; and, thirdly, the Premier's comments on Monday, 10 March concerning the member for Vasse driving his vehicle home, that he was involved in a car accident and that he had only a sketchy memory of driving home; and given that the law in Western Australia does not require a blood alcohol reading —

Several members interjected.

The SPEAKER: This is a very, very long question, member for Butler.

Mr J.R. QUIGLEY: I have two lines to read.

As the law in Western Australia does not require a blood alcohol reading —

Several members interjected.

The SPEAKER: Member for Wanneroo, I call you to order for the second time. Member for Butler, continue.

Mr J.R. QUIGLEY: As the law in Western Australia does not require a blood alcohol reading to sustain a conviction for driving under the influence of alcohol, will the Minister for Police now request the police to investigate whether the member for Vasse was driving under the influence of alcohol, based on this fresh evidence?

Mrs L.M. HARVEY replied:

I might have missed something in the member for Butler's CV, but the last time I checked he was not a police investigator. He was not charged with conducting police investigations. I have said in this house on numerous occasions that, as Minister for Police, I will not interfere in an ongoing police investigation —

Point of Order

Mr J.R. QUIGLEY: I was not asking the minister about an ongoing police investigation; I was asking the minister about a matter that the police said they would not investigate.

The SPEAKER: There is no point of order.

Questions without Notice Resumed

Mrs L.M. HARVEY: With respect—correct me if I misheard—I thought I heard the member for Butler say that he wants me to direct the police to conduct an investigation.

Several members interjected.

The SPEAKER: A question was asked; please answer it to the best of your ability, and if the member wants to ask a supplementary question, he can ask a supplementary question.

Mrs L.M. HARVEY: Once again, to be clear: the police are conducting an investigation into the matters of 23 February. As Minister for Police, convention dictates that ministers do not get involved in ongoing —

Mrs M.H. Roberts: Don't rely on the lies you put up yesterday!

Withdrawal of Remark

The SPEAKER: Withdraw that statement please, member for Midland.

Mrs M.H. ROBERTS: I will withdraw that statement, Mr Speaker —

Several members interjected.

The SPEAKER: Members! I want an unqualified withdrawal, member for Midland. Just withdraw, please.

Mrs M.H. ROBERTS: I was attempting to say the words. Mr Speaker, it seems that you have lost control of that side of the house, because —

Several members interjected.

The SPEAKER: Members!

Mr D.A. Templeman: You don't like the questions, but they must be asked!

The SPEAKER: Member for Mandurah, I call you to order for the first time. Member for Forrestfield, I call you to order for the first time. I want to hear the member for Midland in silence.

Mrs M.H. ROBERTS: You can listen to the tape if you like, but the only words I have been attempting to utter, despite the interjections of members opposite, is that I will withdraw that statement.

The SPEAKER: The statement is withdrawn. I want the minister to answer the question, and if the member for Butler wants to ask a supplementary question, he gets a supplementary.

Questions without Notice Resumed

Mrs L.M. HARVEY: Once again, there is an ongoing police investigation. As Minister for Police, it is not fair for me to comment on an ongoing police investigation. I do not know what is going on over there and why members opposite do not have confidence in the ability of our police force to conduct a thorough and professional investigation into these matters. Our police are highly trained and well resourced; they have a terrific Commissioner of Police at the helm. They are conducting the investigation and they are the experts. They need to be able to do a high-profile investigation into these matters on 23 February without interference, commentary or direction from me or any other member of Parliament, and I stand by that position. I will wait for the police to conclude their investigations, and at that point in time I will comment, if it is appropriate to do so. At present, the police need to conduct their investigation as they see fit. I am not a police officer, and I will not direct, request or interfere in this investigation in any way, because it is not appropriate.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT — POLICE INVESTIGATION

128. Mr J.R. QUIGLEY to the Minister for Police:

I have a supplementary question. By refusing to ask the police to investigate DUI, which they said they are not investigating, what is the minister trying to hide and cover up?

The SPEAKER: Further questions?

VOLUNTEER FIRE BRIGADES — SOUTH WEST

129. Mr M.J. COWPER to the Minister for Emergency Services:

Before I ask my question, I would like to acknowledge chief fire control officers John Twaddle, Phil Penny and Bluey Wilson and all the volunteers and support crews at the recent fires in my electorate.

I understand that the minister spent last Friday in the south west visiting a number of volunteer brigades. Can he outline to the house how those brigades have benefited from the Liberal–National government's investment in new facilities and equipment in the wake of the very publicised Keelty report?

Mr J.M. FRANCIS replied:

I thank the member for the question and for his ongoing support of all the volunteer firefighters in his electorate. I know that the member's electorate has been subject to a number of serious fire events in the last six weeks, not the least of which was the one that occurred last Friday. I was very concerned, driving down there, that something might happen to that wonderful sign on the side of the road with the member's big smiling face, which I see every time I drive down there.

I was down at the cape near Margaret River last Friday. I opened five new fully revamped volunteer fire stations. This is a massive investment in the protection of the community in the south west capes area. The government has reopened Dunsborough, Yallingup Coastal, Cowaramup, Wallcliffe and Witchcliffe fire stations. Had members seen these stations a year and a half ago, they would have seen that they were very small rundown fire stations—some of them were new, but very small. They are now massive. Four of them have been converted to dual-registered brigades, so they are not only volunteer bush fire brigades but also volunteer fire and rescue service brigades. They have been fully equipped with new or upgraded trucks that have great crew protection,

drop-down heat shields, fire-protection blankets and spray bars. The brigades have new, modern facilities and trucks, including a couple of new 34 Urban tankers, which we saw in Dunsborough. The great thing that has come out of this is that when we have dual-registered brigades—four out of those five are now dual-registered—a lot more resources are put into training the volunteers. The really good news about this—we should be commending people for this—is that 40 volunteer bush fire brigade firefighters have stepped up to receive another level of training as volunteer fire and rescue service brigade firefighters. Those 40 people are now trained in such things as structural firefighting and using breathing apparatus so that they can attend not only bushfires but also structural fires. It has been a wonderful investment and has been done very professionally in full consultation with local service volunteers at the Department of Parks and Wildlife. Local government down there has warmly welcomed this and it has been readily accepted by the community. It has been a great investment of $7 million by this government, which is getting on with delivering all the reforms recommended in the Keelty review. There are lots of wonderful volunteer firefighters in those communities doing a brilliant job in a very high bushfire-risk area. We should be very proud of every single one of them.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT — RACHAEL TURNSECK

130. Mr M. McGOWAN to the Premier:

I refer to the fact that the former Treasurer and Minister for Transport's chief of staff, Rachael Turnseck, revealed to the Premier's staff, Brian Pontifex and Narelle Cant, on 25 February that she attended the same wedding reception as Mr Buswell on the previous Saturday night. Given this important piece of information, and given that the Premier committed to riding the former Treasurer harder than Black Caviar was ridden, did his staff ask, or think to ask, if there was any incident that precipitated this leave?

Mr C.J. BARNETT replied:

I think it was an A-list wedding. I was not invited. I do not know who was at the wedding or indeed what happened there or, more specifically, after the wedding.

Mr J.R. Quigley: We do!

Mr C.J. BARNETT: Do you? Tell us! My total knowledge and that of my staff of the event, which was after last Sunday—I stress "after" and not at the time but in March. The first knowledge that I or any of my staff had of damage to the vehicle was after 9 March.

As I said, the function was a private wedding, and I gather there were a lot of people there. Obviously, since 9 March, some information has come from Rachael Turnseck. I do not know why I have to make this public, but I will. Rachael Turnseck and the former Treasurer were invited independently to the wedding of a mutual friend. They went. Rachael Turnseck left the wedding early—I think around 11 o'clock. The Treasurer was still there. She left and went home. She had no knowledge of what happened that night. She was not there—or, she was there until 11 o'clock and then she left. From 11 o'clock to around 1.30 am she has no knowledge, and I have no knowledge, other than the speculation —

Mr M. McGowan: She did have knowledge the next day.

Mr C.J. BARNETT: I do not know who was at the wedding. From media reports, I can tell the Leader of the Opposition that there were some very prominent businesspeople and sporting identities and some prominent media identities. I do not know who was there. I do not know who Troy was with, how he got home or the circumstances, other than what has been reported in the media. That is the truth. That is the totality of my knowledge. As I said, the first knowledge of damage to the vehicle —

Several members interjected.

Mr C.J. BARNETT: I presumed that; I do not know. I do not know the circumstances of how he got home. I do not know how he got home.

Several members interjected.

Mr C.J. BARNETT: It would seem likely that that is the case, and that is what the police are looking at.

Dr A.D. Buti: He told you that!

The SPEAKER: Thank you, member for Armadale. I call you to order for the third time.

Mr C.J. BARNETT: Rachael Turnseck did not know; she had left the function earlier. The member for Vasse, the then Treasurer, stayed on at the function. What happened after that and when he finally arrived back at his residence, I do not know. Rachael Turnseck has no knowledge of it; she was not there as she had gone home earlier. If members opposite are so interested in what might have happened at that function or after, they should go and ask some of the prominent people in Perth who were there.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT — RACHAEL TURNSECK

131. Mr M. McGOWAN to the Premier:

I have a supplementary question. My question was about the meeting on 25 February between Mr Pontifex, Ms Cant and Ms Turnseck. What was revealed to Mr Pontifex at that meeting in relation to the wedding and the events that transpired afterwards?

Mr C.J. BARNETT replied:

Nothing other than that Troy had had a breakdown; his likely treatment that might follow; that obviously he would be absent for a time; and that he probably was going to be admitted into a hospital and he may go to a hospital in Sydney. All of that essentially eventuated. There was no mention about vehicle damage, accidents or anything else. That is it. What else would the Leader of the Opposition like to know, because that is all I know?

Mr M. McGowan: That he was coming back to work.

Mr C.J. BARNETT: He was about to be admitted to hospital. Can the Leader of the Opposition please tell us what he wants? This is like a posse trying to round up people for no reason. Please tell me —

Several opposition members interjected.

The SPEAKER: Order! Member for Butler, I call you to order for the second time; and Leader of the Opposition, for the first time. Premier, can you bring this answer to a conclusion, please.

Mr C.J. BARNETT: I will, Mr Speaker. Let me make it clear that if drink-driving was involved, I condemn that. There is no excuse for that. The police are investigating. Again, and to the media in the press gallery who maybe ought to ask some questions of themselves, if the opposition wants to pursue this, I know nothing that I have not said publicly in here and to the media, and neither does my staff. If the Leader of the Opposition knows something, please tell us. Did the Leader of the Opposition know anything the day before?

Mr M. McGowan: I want to answer.

The SPEAKER: Order! Leader of the Opposition, sit down, please. Member for Warnbro, I do not want to hear from you again. Can you wind this up, please, Premier?

Mr C.J. BARNETT: Yes, Mr Speaker. I had no knowledge of any damage to the vehicle, an accident or driving until last Sunday. I take the report seriously. I agree totally with the Minister for Police that this is a matter for the police. If the Leader of the Opposition and his cohorts have a problem with the police investigation, they should ring up the police commissioner and ask for an appointment, and they can go and provide whatever other information they think they have.

LOCAL GOVERNMENT — AMALGAMATIONS

132. Mr C.D. HATTON to the Minister for Local Government:

As the minister knows, today is the last day for members of the public, including those in my electorate of Balcatta, to have their say on a proposed new local government boundary. Can the minister please provide an update on which local governments are working together as part of this historic reform process?

Mr A.J. SIMPSON replied:

I thank the member for his question and his interest in local government reform. As the member pointed out, public submissions to the Local Government Advisory Board on local government reform close at 4.00 this afternoon. I think the important point is that in just under the 12 months that I have been in this job, when I have met with people in the sector, they have made very clear to me that they want a decision on this issue. As a government, we made a decision and we are now in the fifth round of the public submission process. It will be finalised after five rounds of consulting with the community and the sector. It is now in the hands of the Local Government Advisory Board. As the member pointed out, 16 local governments are working hard in the background to form seven local implementation committees. The aim of those committees is to work out how we can best go through this transition process. As members can imagine, there are a lot of problems to solve in terms of finance, rating, workforce needs and all those sorts of issues that present to local government. As the member for South Perth pointed out to me the other day, the City of South Perth has some money saved for a great community project. The local implementation committee process can make sure that that money is put aside in the account for future years, and as the amalgamation process creates a bigger identity, that money can be spent on the community.

It is a great time in Western Australia to see this issue reaching its final stage. I think the community sector as a whole is looking forward to having better local governments deliver better services to their ratepayers. As we all know, a larger local government can provide more services to the ratepayers. One of the biggest issues for local

governments has been whether one local government can deliver more than another. At least now they can be on a level playing field whereby they can deliver community services to their ratepayers.

As the member for Balcatta pointed out, on 1 July next year the new identities will be established, so in 467 days from today our new local governments will be in place. This is a great opportunity now to hand over to the advisory board, which will come back to me at the end of June or early July with a report that will take us to the next level.

JUVENILE AND FAMILY FIRE AWARENESS PROGRAM

133. Ms M.M. QUIRK to the Minister for Emergency Services:

I refer to the minister's recent comments that the vast majority of those arrested for arson are juveniles, and to the concerns of the Commissioner of Police about the number of juvenile arsonists. Is the minister aware that the award-winning Juvenile and Family Fire Awareness program, a free, confidential education and support program for kids aged six to 16 years who have been involved in lighting fires, has over a 90 per cent success rate in preventing recidivism? The program receives only $25 000 in funding and relies on career firefighters travelling statewide as volunteers to deliver the program. Is the minister ashamed that a mere $25 000 is invested in what is an important measure in preventing arson among juveniles, and what does he intend to do about it?

Mr J.M. FRANCIS replied:

I am speechless. Today marks 294 days since the opposition has asked me a question on emergency services during question time in this place. Since the member last asked me a question, there have been three Prime Ministers —

Ms M.M. Quirk: We've had a few MPIs and questions on notice.

Several members interjected.

Mr J.M. FRANCIS: Australia has won the Ashes since the member asked a question on 22 May last year.

Ms M.M. Quirk: Well, get on and answer it; you should be ready.

The SPEAKER: Members!

Mr J.M. FRANCIS: I had given up on the member asking me a question.

Several members interjected.

The SPEAKER: Member for Bassendean, I call you to order for the first time and, member for West Swan, I call you to order for the second time. Minister, thanks for those statistics, but can you answer the question.

Mr J.M. FRANCIS: I will try my best, Mr Speaker. After 294 days—wow! It is such an important issue that the opposition obviously takes so seriously that it could not be bothered asking me a question.

Several members interjected.

The SPEAKER: Members!

Mr J.M. FRANCIS: I am very aware of the success of the JAFFA program and how it works. No-one has suggested to me that it needs to be expanded. I also point out that it is not the only program the government uses or the only resource at the fingertips of the judiciary and the police. There are many different options; for example, as part of a reform program for juveniles who have been caught playing with matches and starting fires, some of them are sent to Fiona Wood's burns unit to see the consequences of significant burns to understand the damage that fires can do to people's lives and people's property. Firefighters can visit schools and talk to kids about the dangers of starting fires. An awful lot happens in this space. The JAFFA program is adequately funded. Sure, it might be $25 000 and have a 90 per cent success rate, but I have not seen any evidence that putting more money into it will solve any problems because I do not know that there is a deficit in the programs available to juveniles at risk of starting fires.

JUVENILE AND FAMILY FIRE AWARENESS PROGRAM

134. Ms M.M. QUIRK to the Minister for Emergency Services:

I have a supplementary question. If the minister is not ashamed that the miserly sum of $25 000 is given to this program, why did he deflect questions from the media about it?

Mr J.M. FRANCIS replied:

Of course I am not ashamed about the program; I am proud of the program. I do not know what the member is talking about.

CUSTODIAL LEGISLATION (OFFICERS DISCIPLINE) AMENDMENT BILL 2013

Consideration in Detail

Resumed from 12 March.

Clause 7: Part X replaced —

Debate was adjourned on the following amendment moved by Mr P. Papalia —

Page 10, lines 7 to 10 — To delete the lines and substitute —

(2) Where a prison officer has commenced an appeal under section 106, the Minister shall direct that a maintenance payment must be paid to the prison officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the prison officer should not be paid a maintenance payment.

Mr P. PAPALIA: Multiple amendments have been moved to clause 7. Is this the amendment that starts with "Page 10, lines 7 to 10 — To delete the lines and substitute" at proposed section 103(2)?

The SPEAKER: Yes; it is indicated at page 11 of the notice paper.

Mr P. PAPALIA: Thank you, Mr Speaker. I appreciate your assistance. I do not intend to continue debating this amendment much further. I was making the point that we believe there is a need to change the terminology from "may"—giving the minister latitude to decide whether maintenance payments are directed in exceptional circumstances—to "shall". I understand it is the government's intention to oppose this amendment. I will not pursue it much further because we debated it for some considerable time during the previous session. If the minister wants to respond, that is fine. Otherwise we will vote on the amendment and see what happens.

Mr J.M. FRANCIS: Advice from legal counsel is that the word "shall" is not used in modern drafting; it is ambiguous inasmuch as it can mean "must" or "may", depending on the context and the intention. It is not always clear.

Mr W.J. Johnston interjected.

Mr P. PAPALIA: No, he is not; he is saying that he opposes "shall" for a different reason from what he gave yesterday. That is interesting, minister. When did the policy around the use of the word "shall" change?

Mr J.M. Francis: I will have to ask a lawyer.

Mr P. PAPALIA: Perhaps the minister can seek advice from his advisers.

Mr F.M. Logan: And is it widespread across the legal profession?

Mr P. PAPALIA: That is right; is it widespread across the drafting of legislation for this place? Clearly that is something I am not familiar with, but I have heard about that subject in recent times about other legislation.

Mr J.M. FRANCIS: I am advised that "shall" normally means it is mandatory.

Mr P. PAPALIA: That is right, and that is why we were proposing "shall" to compel the minister to do something. We felt it was unfair. Ultimately, that is our fundamental objection to this legislation. The legislation is unfair right throughout, but particularly on matters of maintenance payments, the length of opportunity for people to seek maintenance payments and the length of appeals. All those matters are unfair, and we felt it was unfair that the minister should be given the opportunity to deny someone, on a whim, the opportunity for a maintenance payment. That is why we wanted to make it "shall", so that it was mandatory. That is exactly why we wanted to do it.

Mr D.J. KELLY: Yesterday, the minister said that he did not want people to be guaranteed a maintenance payment because he believed it was possibly an incentive for people to lodge appeals that had no foundation or that it would be an incentive for people to prolong the process to continue to receive the maintenance payment. I know the minister might find this all a bit tedious, but I wonder whether he could point to me anything in the legislation that prevents the employer from deliberately dragging out the proceedings, knowing that the maintenance payments to the employee are of a finite nature. From personal experience of litigation, it is possible for either side to drag their feet. I know from personal experience that the government can often be accused of dragging its feet. Even when the Western Australian Industrial Relations Commission set hearing dates, I was constantly amazed that the government would say it was unavailable to appear in the commission on a whole range of dates because a particular solicitor was not available to deal with the matter. The State Solicitor's Office has a battery of legal staff and represents the government when dealing with government. One of the things it used to do—I suspect it was done to prolong the proceedings—was say that individuals from the office were unavailable for the hearing, rather than say that they were available and that it would find someone from the office to provide the representation. My principal question is: what is in the legislation to prevent the

employer from dragging out the proceedings, and therefore, in effect, starving out the employee? Also, in answer to a question the other day, I thought I heard the minister say that the drafting of the legislation was of a high quality because the State Solicitor previously had been an industrial relations commissioner. I understand that the current State Solicitor is Paul Evans. If he was an industrial relations commissioner, can the minister tell us in what jurisdiction he acted in that capacity, because I cannot find any evidence that he was? If the minister could give us some more information on that, I would appreciate it.

Mr J.M. FRANCIS: Certainly. This bill is before the house because the department does not want to take an extended time to deal with officers in whom the commissioner has lost confidence, and those who are not suitable to continue in their roles. It is not acceptable to argue that a clause is needed that puts a limit of time on the Department of Corrective Services. The Department of Corrective Services will expedite the process as quickly as possible, but also keep in mind that it has to be done fairly, because if we were to rush it —

Mr P. Papalia: It is a legitimate question.

Mr J.M. FRANCIS: I know —

Mr P. Papalia: What is to stop the department intentionally extending the process beyond six months, in which time the person's economic life falls apart?

Mr J.M. FRANCIS: It is because the cut-off date for them receiving an income does not apply until after the notice of loss of confidence has been issued. If it takes six months to get to the point when that is done, they will still be paid until that happens.

Mr P. Papalia: What will happen after that if they dispute the notice of loss of confidence?

Mr J.M. FRANCIS: It will be dealt with expeditiously by the Industrial Relations Commission.

Mr P. Papalia: Why? It does not say that in the legislation.

Mr J.M. FRANCIS: It will be dealt with.

Mr P. Papalia: It does not compel the department to act within six months.

Mr J.M. FRANCIS: No, it does not.

Mr P. Papalia: No, so it can delay the notice of loss of confidence process itself, knowing that after six months the person will no longer have the financial means to continue to appeal.

Mr J.M. FRANCIS: Let us say there is an investigation; if the investigation takes one month or 12 months until such a point that the loss-of-confidence notice is issued, the person will still get paid.

Mr P. Papalia: That is right. And then the appeal process against the loss-of-confidence notice starts but their maintenance payments will terminate after six months.

Mr J.M. FRANCIS: I accept what the member for Warnbro is saying, but the problem I have with it is that if we left it open-ended, there would be an incentive for people to put in frivolous appeals when they have absolutely no chance whatsoever. They may be as guilty as sin of a particular type of misconduct and there is no way whatsoever that the Industrial Relations Commission—on any reasonable person's assessment—would overturn that decision. If it is made open-ended without discretion, as the member is arguing for, there would be an awful lot —

Mr P. Papalia: No, we are arguing for the amendments I am moving; they are not open-ended. Read the amendments.

Mr J.M. FRANCIS: I have read every single one of the member for Warnbro's amendments; I have spent weeks reading them. We do not accept that, because we do not want these things to drag on beyond a reasonable time, which is why it is set out in the bill. As to the second part of the question about the State Solicitor, the advice I had yesterday is that the person from the State Solicitor's Office who drafted this is not "the" State Solicitor. I think I chose my words very carefully and said that the State Solicitor who drafted this held that position.

Mr D.J. Kelly: Who was that?

Mr J.M. FRANCIS: I can provide that name, can I not? It was Mr—no, that is the advice from the officers from the State Solicitor's Office. I will come back to that. I will get the member the name of the officer from the State Solicitor's Office who drafted it.

Mr F.M. LOGAN: The minister has claimed on numerous occasions in the house that the reason many of these provisions are being put into the Prisons Act by way of this bill is to speed up the process for the right of the chief executive officer to suspend or dismiss an officer when there is loss of confidence, and to speed up the process of the appeal, should an appeal arise from that. The minister gave a very small number of examples—I cannot remember how many. The member for Warnbro was in this place at the time.

Mr P. Papalia: Ultimately, a list was provided of three over the last two years.

Mr F.M. LOGAN: Three over the last two years have lasted longer than six months. Given that this whole position is based on the Police Act and the manner in which the police commissioner deals with similar incidents of loss of confidence, I would like the minister to tell us how many of those appeals in the police force have gone beyond six months, and why the minister thinks he can speed up the process by way of introducing these provisions. Also, does the minister accept that in due process the officer has the right to appeal? The minister made some comments a little earlier in his answer to the member for Warnbro that if the officer is so guilty and the issue is so black and white and that it is profound that the officer is guilty, it is just frivolous that the person may appeal. Is the minister suggesting that that person does not have the right to appeal?

Mr J.M. Francis: No, not at all.

Mr F.M. LOGAN: If due process, regardless of the incident, allows a person the right of appeal and allows him to have his matter tested in the Western Australian Industrial Relations Commission, the opposition suggests that during that due process, that person should be paid—that is, "should" be paid, not "may" be paid. The word in the clause that we are seeking to replace is "may".

Mr J.M. FRANCIS: It is very clear that this provides for an exceptional circumstance. The minister at the time may determine otherwise, but it is perfectly reasonable to have a cut-off date from when a particular person continues to be paid.

I do not have the details of how many police officers who were issued loss-of-confidence provisions had their matter delayed earlier than or beyond six months. I do not have that information.

Mr W.J. JOHNSTON: Does the minister think that there would be a circumstance in which the commissioner issues a loss-of-confidence notice and starts the process to have somebody terminated and the loss-of-confidence procedure results in the person retaining his job?

Mr J.M. FRANCIS: I do not want to go around in circles, but we dealt with this at length yesterday; perhaps it was when the member was not in the chamber. I referred to the advice I received about the police and I went into some detail about two cases that were overturned by the Western Australian Industrial Relations Commission. One officer received financial compensation and the other officer was reinstated. Once the legislation is passed and the regulations are in place, there may well be an instance in which the Industrial Relations Commission orders reinstatement.

Mr W.J. JOHNSTON: I am sorry; I did not ask my question properly. I will now ask it in a better way. Does the minister foresee any circumstance in which the commissioner would start a loss-of-confidence process by issuing a notice to show cause why a person should not lose his job and the commissioner withdraws that notice on the basis of evidence that is produced during the procedure?

Mr J.M. FRANCIS: It is a real possibility. The process might be started. Part of this is the ability to have the commissioner compel an officer to answer questions when he cannot provide information from an alternate source. That information might well be provided by the officer and the commissioner might say that he has absolutely done the right thing—end of process. That is very reasonable. In fact, it is my understanding from my conversations with the Commissioner of Police that that happens on a regular basis in the police force. Can I foresee it? Absolutely. Indeed, it might happen on a regular basis.

Mr W.J. JOHNSTON: What sort of information would come to the commissioner's attention during the hearing process that is set out in the legislation that would not be known to the commissioner before he issued the notice? The example the minister gave was information that the member might provide when he is compelled to answer a question, which might be information that is not known to the commissioner before he issues the notice. Can the minister provide an example of other issues that he thinks might come to his attention during the process?

Mr J.M. FRANCIS: I will not get bogged down with a range of hypotheticals, but there could be any number of varying sources of different information that might be drawn to the commissioner's attention during the course of an investigation.

Mr P. PAPALIA: I will revert to a couple of the minister's statements that he made a "couple of times ago" when he indicated that he wants to avoid providing an incentive to individuals to unnecessarily extend the process beyond six months, which is why maintenance payments will be constrained and terminated at six months. Conversely—let us flip this on its head—is the minister not providing an incentive to the department to extend the process beyond six months so that maintenance payments will be terminated, thereby constraining the ability of the individual to dispute the entire process and appeal against it because his pay ends after six months and he will not be able to fund a fight against the charge? Is the minister not, in exactly the same fashion, creating an incentive for the department, the employer, to extend the process intentionally beyond six months? I know that the minister is not stating that that is his intention, but has he not created an incentive for the

department, if it is in dispute with an individual and it knows full well that that individual's means of funding his lifestyle and sustaining himself ends after six months, to extend the process beyond six months?

Mr J.M. FRANCIS: No, because I have confidence in the professionalism and standards of those in charge of the Department of Corrective Services to ensure that these issues are dealt with appropriately and in a timely manner. If I as the minister—hopefully this applies to future ministers—was made aware that the department had acted in such a way as to provide a financial disincentive and punish, if you will, an officer facing this process, I would consider that to fall under the exceptional circumstances clause. I would be absolutely furious with the Department of Corrective Services if it did what the member for Warnbro has suggested it could do, which is to deliberately drag out a matter. It is not my expectation that anyone in the public service, the Department of Corrective Services or any other department would deliberately drag out a matter out to cause financial hardship.

Mr P. Papalia: Would that be your view in every instance if you heard of something of that nature?

Mr J.M. FRANCIS: If it was deliberately done for that reason, I would consider that that is a reasonable situation for a minister to use the exceptional circumstances clause.

Mr P. Papalia: Why then is the minister opposing the use of the word "shall" in place of the word "may"?

Mr J.M. FRANCIS: What happens if it takes six months to get to an appeal and the case is reviewed and it is decided that the circumstances are not exceptional and that the department did not deliberately slow down the process? I oppose it because I would not consider those circumstances exceptional.

Mr P. PAPALIA: Has the minister read the wording of our amendment? If the minister had read the entire amendment, he would understand that we still want to give the Minister for Corrective Services the opportunity to say that he has to consider it, but because there are exceptional circumstances—that is, in a particular instance he feels that the individual concerned has unnecessarily extended the process—he would deem that the exceptional circumstance lies in that individual not behaving in a legitimate fashion; therefore, he would not extend the maintenance period. This provision will not make the minister extend the maintenance period; rather, it makes the minister consider it. In the event that there is an exceptional circumstance, he does not have to. The minister has said that he will not give the option of considering extending the maintenance period because he does not want to. This legislation is not about the minister. It has not been written for the minister nor has it been written for Commissioner McMahon. Rather, it has been written for the future and for any individual, no matter his personality. For that reason, the minister should err on the side of fairness to ensure that, regardless of the personality in the seat, the minister is compelled to consider extending the payment unless there is an exceptional circumstance, such as the person who has been charged has played the system.

Mr F.M. LOGAN: It is a pity that the member for Butler is not here, because he would be able to go through this example far better than I will be able to. He advised me of a situation in the Department of Corrective Services that arose at the end of the Court government in the 1990s. Six superintendents were stood aside, not by the minister, but as a result of charges brought by the Director of Public Prosecutions. They were stood aside for 18 months, and then reinstated. The minister says that there are only exceptional circumstances, but it has been proven in his own department when senior management officers were stood aside for 18 months. It had nothing to do with, or was outside the control of, the Minister for Corrective Services. Under this clause, they would not get paid after six months. Does the minister agree with that?

Mr J.M. FRANCIS: I have absolutely no knowledge of what happened in the Department of Corrective Services back in 1998.

Mr F.M. Logan: It doesn't matter; it happened.

Mr J.M. FRANCIS: The member said so. I do not know about it, so I will not comment.

Mr W.J. JOHNSTON: When the minister says that someone might have a frivolous appeal that would delay matters—a frivolous appeal to the Industrial Relations Commission—why would a frivolous appeal not be dismissed by the Industrial Relations Commission? What is the benefit of taking a frivolous appeal to the Industrial Relations Commission?

Mr J.M. FRANCIS: If we want to ensure that people are continually paid during that process beyond what I would call a reasonable period, then we are not providing a financial incentive for people to appeal just to keep getting paid for that time.

Mr W.J. JOHNSTON: That was not the question I asked. Why would the Industrial Relations Commission not deal with the matter and dismiss it if it is a frivolous appeal? It is not as though the Industrial Relations Commission does not have powers.

Mr J.M. Francis: It would eventually.

Mr W.J. JOHNSTON: The minister says "eventually", but how long does the minister think that will take? Why does he think this will unnecessarily delay matters? The minister has not explained in any way why the

Industrial Relations Commission would be expected by him to allow a frivolous appeal to delay procedures. That appears to me to be the minister's argument. I am just trying to understand the basis of that argument because it seems a bit wrongheaded. Anybody who has knowledge of these matters knows that the Industrial Relations Commission will not entertain a frivolous appeal.

Mr J.M. FRANCIS: I am advised that for that to happen, the Commissioner for Corrective Services, the CEO, will have to make an application to the Industrial Relations Commission to have it dismissed. I appreciate that the member for Cannington and I do not agree on this, but if it was open ended, every single person, regardless of the merits of the matter presented before the Industrial Relations Commission, would have a financial incentive to appeal even if they knew they had absolutely no chance of succeeding. I do not accept the merit of that argument.

Mr W.J. JOHNSTON: The minister still has not answered the real question: why would the commission entertain a frivolous appeal? I do not understand that. Why would the commission not simply dismiss an appeal without merit? The IRC does not comprise a bunch of numbskulls. The commissioners understand the law probably significantly better than most people I have ever met. One of their strengths is their commonsense. That is why union officials love appearing before them because they get stuff. Why does the minister think that the Industrial Relations Commission would entertain a frivolous appeal? He still has not answered that question. It is pretty damn fundamental because the basis of the minister's argument is that everybody will do a frivolous appeal because they will get extra money, but that is only in the case of the commission entertaining the appeal. The commission holds wide powers to deal with matters in any way it sees fit. Indeed, the Commissioner for Corrective Services could make any application he or she saw fit, all of which would mean that a frivolous appeal will be quickly dealt with. Why does the minister not have confidence in the Industrial Relations Commission to deal with matters appropriately? If that is the problem, would it not be faster to have this done by application to the Industrial Relations Commission so that the minister could have it as the decision-making body? Therefore, the Commissioner for Corrective Services would make an application to the commission and present his evidence, and the other side would try to rebut. That would solve everybody's problem because there would not be an appeal from that process—or there would be, but it would be beyond the employment relationship. That would be a nice and simple system with people knowing what they are doing making the decisions, instead of the employer. Without having spoken to the unions, I imagine the unions would probably be relaxed about that process.

If the minister wants to cut that frivolous opportunity, which does not exist, but even if it did exist, put the powers over to the Industrial Relations Commission—and Bob's your uncle! The problem the minister is predicting would then be solved, and we could all move on and not worry about stuff. However, the minister is creating this complex system that is trying to impose a new rule on employees to make them as though they were having this special relationship with the Crown that does not exist today. The minister's decision to do this will probably lead to higher pay for the people working in this sector. If he wants to keep away from frivolous appeals, why not have a better system? I still get back to my question: can the minister tell me why the Industrial Relations Commission will accept a frivolous appeal?

Mr J.M. FRANCIS: I refer the member back to 2002. The then Minister for Police, Hon Michelle Roberts, amended legislation to apply to police. I am advised that prior to 2002, the—that is, appeals that were frivolous for the dismissal of police officers before the loss-of-confidence provision was introduced. We know it happens. Also, I refer the member back to the Police Amendment Bill 2002—that is, the loss-of-confidence provision. The explanatory memorandum, relating to section 33M, under the heading "Maintenance payment", which is essentially what we are dealing with here, states —

> Significantly modifies the practice under previous administrative arrangements whereby members could appeal to the WAIRC after the Commissioner recommended their removal, but before being removed. Members also continued to receive pay and could generally resign prior to the appeal being determined. This acted as an incentive for members to appeal, even where the appeal had no merit.

It is exactly the same argument —

Mrs M.H. Roberts: That is because, under Premier Richard Court's regime, police officers who had been paid for two years or more were still on the books doing nothing.

Mr J.M. FRANCIS: I like the member for Midland's standards. I am applying exactly the same standards here today that she applied back in 2002.

Mr P. PAPALIA: I might just point out something at this stage, because I think I might have introduced a false perception onto the record. I referred to a six-month period being the maximum period under this new regime the minister is introducing. The normal routine would be to get 28 days. The minister states that there would be individuals extending the period unnecessarily to rake in the dollars. As I said before, the minister has created an incentive for the system to extend the period of the application beyond 28 days, at which time their maintenance payments, as well as their ability to sustain themselves, will stop. They will be vulnerable to the department—

that is, their employer—manipulating the process. The minister has created exactly the opposite incentive. He is claiming his motivation is to avoid placing incentives in the system for people to appeal, and to extend their appeal process unnecessarily, but the minister has done exactly the same for the department. People from the department will be motivated at every opportunity to extend beyond a month, at which time the person's pay ends, and they will not be able to appeal in a fair fashion.

Mr J.M. FRANCIS: If what the member is saying were to happen, I would consider it highly unethical behaviour by a public servant in the state of Western Australia. It would not be acceptable. I would expect them to be dealt with accordingly under the Public Sector Management Act.

Mr P. PAPALIA: The legislation would not compel the minister to even consider it. It only states —

> The Minister may, in exceptional circumstances, direct that a maintenance payment must be paid to the prison officer for a specified period after the maintenance period.

In the normal course of events the minister would just be trundling along and the department would tell him, "This person has extended it themselves; we haven't concluded it. It has gone beyond 28 days; it's time for the maintenance period to end", and the minister would just tick it off. In this legislation, there is no compulsion on the minister to consider it. The minister says that he would, but no-one else necessarily would—and the minister might not. He may not even be aware of the situation other than the fact that it has gone beyond 28 days. That is the point.

Mr J.M. FRANCIS: I have absolutely no doubt whatsoever that if that was the case, the Western Australian Prison Officers' Union would make me fully aware of it.

Division

Amendment put and a division taken, the Acting Speaker (Mr I.M. Britza) casting his vote with the noes, with the following result —

Ayes (18)

Ms L.L. Baker	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Dr A.D. Buti	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.H. Cook	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire	
Mr D.J. Kelly	Mr J.R. Quigley	Mr P.C. Tinley	

Noes (32)

Mr P. Abetz	Ms E. Evangel	Mr R.F. Johnson	Dr M.D. Nahan
Mr F.A. Alban	Mr J.M. Francis	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr C.J. Barnett	Mrs G.J. Godfrey	Mr R.S. Love	Mr J. Norberger
Mr I.C. Blayney	Dr K.D. Hames	Mr W.R. Marmion	Mr D.T. Redman
Mr I.M. Britza	Mrs L.M. Harvey	Mr J.E. McGrath	Mr A.J. Simpson
Mr M.J. Cowper	Mr C.D. Hatton	Mr P.T. Miles	Mr M.H. Taylor
Ms M.J. Davies	Mr A.P. Jacob	Ms A.R. Mitchell	Mr T.K. Waldron
Mr J.H.D. Day	Dr G.G. Jacobs	Mr N.W. Morton	Mr A. Krsticevic *(Teller)*

Pairs

Mr M.P. Murray	Mr T.R. Buswell
Ms J.M. Freeman	Ms W.M. Duncan
Ms J. Farrer	Mr G.M. Castrilli

Amendment thus negatived.

Mr P. PAPALIA: I move —

> Page 10, after line 14 — To insert —
>
> (4A) At the end of the specified period, the Minister shall review the progress of the appeal and renew the maintenance period for a further specified period not exceeding 6 months unless:
>
> (a) the appeal has been determined by the WAIRC; or
>
> (b) there are exceptional circumstances justifying why the prison officer should not be paid a maintenance payment.

In a way we are revisiting what we just debated. We are trying to throw in an additional clause. As we have indicated throughout this debate, we are trying to help the minister make this legislation fairer. Our initial position was that it is not necessary; nevertheless, throughout this debate we have offered options to make the legislation fairer than it might otherwise be. This is a key initiative. If a minister is not compelled to review the progress of an appeal and extend it for a period not exceeding six months—still providing an out; the ability not to do it if it has been determined by the WA Industrial Relations Commission, or not do it if there are exceptional circumstances justifying why the prison officer should not be paid a maintenance payment—both

options are still there. We say the minister should be compelled to review the progress of the appeal; otherwise, it is unfair.

I will sit down in a moment and ask the member for Butler to recount a real situation in which this sort of consideration would have been necessary. In that case, the circumstance of not compelling a minister to consider extending a maintenance period would have been completely unjust. It is a real possibility. This is something that can happen and has happened. The minister keeps making the same response; that is, he would find that outrageous and he would be deeply offended, and he would see that the department changed its position. That is inadequate because this legislation applies to anybody. The minister is writing the legislation for any future minister and any future public servant engaged in this process. Because we are talking about people's integrity and people being publicly impugned and the consequences of that—entire livelihoods are at stake here in what we do—I think the minister needs to err on the side of caution. He also needs to err on the side of fairness. I ask the member for Butler to make a contribution.

Mr J.R. QUIGLEY: Part of my curriculum vitae included for many years general counsel to the Western Australian Prison Officers' Union. I represented many, many officers—probably 60 or 70 of them during the black deaths in custody inquiry—but a lot of them in criminal proceedings. There was a view within governments of the day that there existed within the prison service a "purple circle" of untouchable officers;—a group that the government and the minister of the day would clear out. This Minister for Corrective Services has already indicated that he is going to change the culture and that there are some people who should not be in the service. Prison officers work under incredible working conditions. They are charged with guarding and incarcerating some of the worst pathological liars in the state of Western Australia. I can recall a case. One of them was David Hyde and another was Dean McClure. Five superintendents were made the subject of what was then called a section 9 inquiry into happenings within what is known as the SHU, or the special handling unit. We must bear in mind that the minister is presenting this legislation before Parliament not for himself, but for the ages; Parliament will not revisit these provisions likely for decades. I will tell the house what happened in this particular case. A psychopathic criminal by the name of Chapman escaped from the yard of the special handling unit onto the roof. The prison authorities called in what was then called the special operations group. I do not know what it is called now but it was the special extraction group. It attended the SHU and, at the request of the superintendent, went up onto the roof, which was no easy feat because, as the minister knows, it has a great big bullnose edge to it with a little yard. I do not know how the devil Chapman got up there, but he did. When he was brought down, he was struggling and was restrained on the ground. He wrote to the Ombudsman complaining of assault. The Ombudsman investigated this assault and concluded that there was nothing in the prisoner's complaint. The prisoner kept persevering. Bearing in mind that the closest prisoners to him in the unit were also psychopaths, one of them, who is now deceased, was a dreadful man called Everett, who was in prison for a very long period. He was a diagnosed psychopathic criminal. Chapman persuaded Everett to back up his story. The minister of the day commissioned the Director of Public Prosecutions to hold a section 9 investigation. At the end of the section 9 investigation, and after being entirely sucked in by these two psychopathic criminals, the DPP, Mr McKechnie, QC, as he then was, recommended that charges be brought against these officers, all of whom were superintendents by that stage.

Mr F.M. LOGAN: I am fascinated by the presentation of the member for Butler and I ask that he be given an extension.

Mr J.R. QUIGLEY: They were the superintendent of Casuarina Prison, the superintendent of Hakea Prison, the superintendent of Wooroloo Prison Farm, the superintendent of Pardelup Prison Farm and the superintendent in charge of the special operations group. Upon recommendation of the section 9 inquiry, the minister caused them all to be suspended and the director did his bit by charging them all with conspiracy to pervert the course of justice. These people were then stood down from duty for, I think, over two years. Fortunately, the provisions in this bill did not apply at that time and they were fully paid. I will tell members what happened at the trial, if I may, because it will bring it to a swift end. At the trial, when cross-examining Chapman on the story he had told the jury about how he had been assaulted and flogged by these people in the yard, I put to him an entirely different account and said, "What do you say to this account?" He said, "What you're now saying is a pack of lies, Mr Quigley. It's a pack of lies that you're making up." I said, "Now I want you to read the document I am reading", which was the statutory declaration that he had given to the Ombudsman five years before, and he had to read that to the jury. I said to him, "Which offence did you commit—perjury today or making a false declaration back then? Do you want the five or the two years?" He went white and the jury burst out laughing. Everett, the pathological liar, had been sitting outside, so we had to go through the whole charade again. I put the story to him and he said, "That's all lies; that's not how it happened" and I revealed that that was exactly what Derek John Chapman had said in a statutory declaration some years before.

I bring this case before Parliament to say that prison officers have to work with the worst of the worst in Western Australia—the scum of Western Australia—who are pathological liars, cheats and criminals and will do anything to implicate officers in wrongdoing. People get sucked in by them. People should not be without their pay until

an offence has been proven against them. If someone in this Parliament—there is an elephant in the room whom I will not speak of—does the wrong thing, they still get their pay —

Mr D.J. Kelly: Until they are well.

Mr J.R. QUIGLEY: — until they are well or until they are cleared or convicted, because people make allegations. It is easy to make an allegation. In this particular case, if these amendments had been in situation at the time of the prison officers' trial, it would have visited the greatest injustice on the prison service. The minister commissioned the inquiry and the director presented the indictment, but neither of them bothered to read the documents that the pathological liar Chapman had signed five years previously. There is a very troubling view about this government that says that if there is the occasional injustice, it does not matter if it is for the greater good.

Mr D.J. KELLY: I would like to hear the member for Butler continue.

Mr J.R. QUIGLEY: I am referring to the Attorney General's statement in response to Chief Judge Martino's article in the newspaper in which he said that he was disturbed that a mandatory sentencing provision of 15 years may lead to some injustices. The Attorney General conceded the point that it may lead to some injustices, but the government wants heavier sentencing. The government is concerned not with justice for an individual, but with a more blanket approach.

We need to remember what the cessation of a person's income involves—a person losing their home and their children being ripped out of school. I have seen it all before in my legal practice. Children have been ripped out of school because people have had to sell the house and move elsewhere, without concrete proof of corruption. These are not tender nurses in some clinic for the temporarily unwell; these are people whom society asks on a daily basis to look after the worst of the worst who will make up any lie about them. I remember the black death royal commission. I remember the tragic death of Robert Joseph Walker, an Indigenous person within the prison. Plays have been written about it. It was tragic. He was extracted from G and H landing at Fremantle Prison because he was slashing his wrists. He was restrained and, as a result of so many people restraining him, none of them realised that he had died of asphyxiation because he was not able to breathe properly. That was all a tragedy. However, each prisoner in blocks A, B, C, D, E, F, G and H on the west side of the new division who could look out of the windows gave evidence of this severe beating that he suffered. All they wanted was to destroy the officers. All this Chapman and the late criminal Everett wanted was to destroy the officers. Some of these people are very, very conniving. These officers are at risk and not just physically; they are at risk from false allegation and conspiracies on a daily basis. I support a strong disciplinary regime. I ultimately support loss-of-confidence provisions whereby the minister should be able to dismiss someone for loss of confidence, but it should be only after conviction; otherwise, they are operating on allegations brought by the worst of the worst.

If these provisions were in place at the time of the superintendents' trial, Dean McClure and David Hyde and the whole lot of them would have lost their homes. These are not wealthy people; these are public servants. Although on the one hand I support a very rigorous disciplinary proceeding because things will happen at times which we all wish did not happen and which will require a robust disciplinary proceeding, on the other side of the penny is fairness for the officers so that they and their families are not destroyed on the back of false allegations and are not destroyed by being stood down for two years like these officers were. I guarantee the minister that if he had been sitting in that chair at the time those prison officers were presented on an indictment for conspiracy to pervert the course of justice, he probably would have dismissed them for loss of confidence, but they certainly would not have been paid. I am very opposed to this clause and I support the member for Warnbro's amendment.

Mr J.M. FRANCIS: I thank the member for Butler. Honestly, as the member knows, I sit and listen to many of the words the member says in this place and take them all on board. I make two points. The member for Butler was in this place in 2002 when the same provisions were brought in for dealing with the police. I will not go back and check *Hansard*, but I do not remember the member for Butler crossing the floor and voting against his government's legislation when the same principles applied to the Western Australia Police. I agree that this is about the greater good. There are 5 050-odd adult prisoners in Western Australia right now and I cannot put my hand on my heart, as nobody can, and tell the house that every single one of those 5 050 is guilty; one or two may well be innocent. However, this is about the greater good. If the member wants to take a different philosophical position from that, that is fine. We believe in the greater good. We believe that this is an effective tool that the commissioner will use fairly to help reform the Department of Corrective Services and, quite frankly, my personal view is that it is long overdue.

Mr J.R. QUIGLEY: I want to respond to the comment made by the minister that he did not recall me voting against the provisions brought in for the police, but the minister overlooks—he was not in the chamber and he did not have the history of all this as he was 10 000 feet undersea—that the Commissioner of Police under section 8 always had a loss-of-confidence provision and there was no appeal against it, so we brought in an

appeal against the loss of confidence. Why would I vote against that? Section 8 was very unfair because a commissioner could turn around and say, "I don't like you; get on your horse; go" because of loss of confidence, and the officer had no right of recourse. The only thing that was required was the minister's signature, and the minister always gave the commissioner his signature. The Labor Party resolved to provide an avenue of appeal to give equity, which was opposed by the Liberal Party. Those police always get paid. In the case of Mallard, those two crooks Shervill and Caporn were before the Corruption and Crime Commission for a couple of years and they got paid the whole time, with no questions asked. Not only did they get paid the whole time, but also at the government's expense, they were given a private office in Belmont to prepare their case against the CCC. That is unbelievable. By then they were commissioned rank, so that is how the system looks after the hierarchy, but it is not how it looks after the workers. It is all very well for the minister to say that he is concerned with the greater good and not as concerned with the individual case until the individual case is one of the government's own. The government has this great big pledge for Nate Dunbar, the poor child who was killed by a drink-driver, but when it is one of their own under the scope for jumping in a car and driving home after drinking, in the same manner as the person who killed Nate Dunbar—she had been drinking for some hours, as had the member for Vasse—they get all antsy.

Point of Order

Mr J.M. FRANCIS: I ask you to consider the point of relevance on this matter and ask you to bring the member for Butler back to the clause that we are considering.

The ACTING SPEAKER (Mr I.M. Britza): I take the point.

Debate Resumed

Mr J.R. QUIGLEY: I am addressing the point that the minister said that he is concerned with the greater good, not the individual. I was just pointing out that when the individual is one of the government's own or it is close to the individual, it is all about the individual and it is un-Australian to ask a question. I do not buy this "greater good" thing. It is a question of proximity to power, and that is the very point I was making about —

Ms M.M. Quirk: It is also an assessment of who is fit and proper.

Mr J.R. QUIGLEY: That is the very point I was making about Caporn and Shervill, because they were at the top of the tree, so when they got suspended, they could get paid for as long as they liked. Did they get dismissed for lack of confidence? No; they were parachuted into a cushy job in the minister's department. It is sickening. The thought that prison officers could be suspended like this without this safety provision that the member for Warnbro is valiantly and thoughtfully trying to put into the legislation means that these officers would suffer great injustice.

Mr P. PAPALIA: The member for Butler has been very erudite in outlining the real reasons for the need for some thought here, not just mindlessly parroting this line that this is what happened for the police. The police were coming from a different situation. They are not the same as prison officers and youth custodial officers. The bill in 2002 was changing different legislation from the legislation that now oversees the discipline of prison officers and youth custodial officers, so it is ridiculous to continue to refer to that. I want to bring it closer to home to someone whom the minister knows. Is the minister aware that one of the individuals to whom the member for Butler referred, one of the individuals integrally involved in the incident to which the member for Butler referred, was Superintendent Castle, who was formerly Acting Assistant Commissioner Craig Castle? He was in the emergency support group unit that contained one of the individuals who was charged in that incident to which the member referred. Had the situation played out under the legislation that the minister is introducing, he would not be here. I assume the minister considers him to be a good man. I assume the minister considers him to be a suitable person to be a superintendent. I assume that the minister would feel that his departure under an unjust system would have been unfair. The minister is introducing legislation that would enable someone of his ilk to be removed purely through economic deprivation. They would arrive at a point in time, through a delay in the process beyond 28 days, at which they would be confronted with the decision to either cease or concede their appeal, based on the need to have an income. Their income would end, their mortgages would be under threat, and if their children were in school, they would possibly not be able to continue to pay for that, and any other payments that they had to make for the necessities of life would be under threat because the minister's legislation does not compel fairness. It allows flaws and failures, and it allows people to be deprived of natural justice through the manipulation of their economic wellbeing, and all just because the minister wants to replicate the legislation that applies to the police.

There is no justification for that; the minister needs to think about it and consider some of these amendments. In particular, if he is going to consider any amendments, he should consider the ones that relate to providing fairness for individuals who are caught up in this process and who may be compelled to not pursue an appeal simply because they cannot afford it.

Mr J.M. FRANCIS: The member for Butler has left; otherwise, I would have explained to him that if he had moved on to proposed section 106, "Appeal right", under subdivision 3, "Appeal against removal of prison

officer", he would have realised that there is actually a right of appeal in this process. Essentially, the member for Warnbro is trying to compare a section 9 hearing with loss-of-confidence provisions, and they are two separate and very different processes.

Mr P. PAPALIA: We are not comparing them; we are saying that the same individuals who were subject to this section 9 process would, under this legislation, be subject to this process. This process would not have entitled them to continue to receive their pay, as they did in that situation, in which they went on for two years, caught in a situation that was not of their own making. Under this legislation, it would have terminated after 28 days or, at the most, six months, and those gentlemen caught in that situation would not be here. They would not have continued; they would not have been successful because they would have been compelled to give up because they had no money; they had no pay. Under the section 9 provisions and the incident to which the minister referred, they would have continued to receive their pay—fortunately; otherwise, Superintendent Castle would not be here today. He would have had to go off and find another job because he would not have been able to afford to keep paying his mortgage. That is the point. We are not saying that that process is the one that the minister is introducing; we are saying that the process he is introducing stands to be less fair because it does not have the provisions for fairness. It does not compel the minister or the system to provide for maintenance payments beyond these limited opportunities that have been drafted in legislation. That is the point.

Mr D. KELLY: The minister seems to be proceeding on the basis that he can be confident that the employer will never play out the process with the idea that playing out the process will impact upon the employee because of the financial constraints that come from the clock ticking. I just do not think the minister can be confident that that will not take place. These sorts of proceedings are always subject to time constraints. In every step of the process in these sorts of proceedings, there are time limits. Information has to be exchanged, people have to be given time to respond to allegations, and the lawyers have to be given time to consider what has been given and then respond. Throughout that whole process, when we are talking about a monetary time period of only a few months, I am not saying that it is going to be at the front of the mind of those representing the employer that they would deliberately not answer their phone, deliberately miss deadlines, or deliberately do things that drag out the process; but the incentive is always there in the process for the employer to take that bit of extra time: "Do we need 48 hours to respond to this, or do we need seven days? Do we need seven days, or maybe 14?" That is the way the legal process works; it is almost part of the tools or the armoury when one is dealing with legal proceedings. I am not saying that that is corrupt, and I am not even saying that that is at the front of lawyers' minds when they deal with these issues, but it is built into the legal process. When one asks, "Can you respond to this in 14 days?", the answer is invariably, "No; I'll probably need 72." It is part of the process, and I am speaking not from some sort of academic view of how this might happen, but from dealing with matters for 20 years and seeing how this plays out.

Mr J.M. Francis: You're not that old!

Mr D.J. KELLY: Maybe I do not look that old, but, yes, 20 years!

If at the back of an employee's mind is, "Well, if I can't get this resolved by X, the employer's going to be able to effectively starve me out and I'm going to lose my pay", that will bear heavily on the employee's mind. On the other side of the table, if the employer can say, "Well, we know that once this person hits the period where they stop getting paid, it's going to put immense pressure on them", it will have an impact upon how matters are played out. Do not say that it will not, because it will. That is not to say that the people involved have a corrupt way of dealing with things, and it is not to say that there is some grand conspiracy; I am just saying that this is how legal processes travel. If one can use the timetabling of a matter to deliver the outcome one wants, lawyers are almost of the view that one would be negligent not to. The minister has put in place time frames that are really quite short—six months for an appeal to the Industrial Relations Commission. Appeals, for example, have to be dealt with under this legislation by three commissioners, one of whom has to be a chief commissioner or a senior commissioner. To just get three of them to sit on the same day, one could be waiting eight weeks. The time frames in the legislation are way too short to really provide fairness to employees.

Amendment put and negatived.

Mr P. PAPALIA: I did not divide on that amendment, but I give the minister notice that I will on the next one. This is the minister's last chance in this particular area to apply some degree of fairness to the scenario that individuals can get caught in the process and it can extend beyond the standard period, which is 28 days, not six months, subject to the minister deciding to consider it, because that is all "may" compels him to do. It does not compel him; it is only if he feels like it.

I move —

Page 10, after line 17 — To insert —

(5) A prison officer who has commenced an appeal under section 106 and is aggrieved by:

(a) a period of suspension; or

(b) the exercise of the Minister's discretion to not make a maintenance payment that results in undue hardship to the prison officer,

may apply to a commissioner in the WAIRC who may either substitute or vary or affirm the decision of the chief executive officer, or the Minister, as the case may be.

That is a reasonable contribution. We are proposing that the minister add a last chance for these individuals who might otherwise be deeply affected economically by something that is completely out of their control, such as an unforeseen extension of the period if, for whatever reason—oversight by the minister or failure in the administrative process—the minister fails to make the decision to extend their maintenance payment period and they are then compelled to consider what they do because of financial constraints. It is not a question of whether it is fair, whether they concede the charge or whether they agree with the commissioner; it is about whether they can afford to continue with their normal life. They will be compelled to make that decision and to forfeit their chance at justice—the justice that was given to the nine or so defendants to whom the member for Butler referred earlier, one of whom is now a superintendent but at that time was just a prison officer in the emergency support group. Had that officer been compelled to consider, as he would under this legislation if the circumstances come together, whether to continue his appeal, he would have had to leave the Department of Corrective Services and get another job. That is because he could not have afforded to keep his life together, because the maintenance payments would not have come to him automatically and the minister would not be compelled to consider them and to make a decision as to whether or not they should be extended. All those individuals were innocent, which is no small matter. We are not talking about one person, although in my view it would be egregious if even one person were affected by this; it would be wrong. The minister and I have different philosophical views about justice, because I think that everyone deserves justice, whereas the minister thinks it is okay to condemn a few people in the course of the greater good—except, of course, when it is someone in the cabinet who has done wrong, then that is okay and that person deserves every bit of justice.

Mr J.R. Quigley: Do not be un-Australian, member!

Mr P. PAPALIA: I am sorry; I am being un-Australian.

The ACTING SPEAKER (Mr N.W. Morton): Keep to the amendment, thank you, members.

Mr P. PAPALIA: I will stop being un-Australian and return to the amendment. It is not as though there has been a lack of justice in Western Australia in the last couple of weeks. The extraordinary juxtaposition of one drunk driver compared with another is just amazing!

Mr D.J. Kelly: Don't worry; the suburb is still intact!

Mr P. PAPALIA: That is right. We are told, by the backbench of the Liberal Party —

The ACTING SPEAKER: Members, I remind you to bring your conversations back to the amendment we are discussing, thank you.

Mr P. PAPALIA: I will, Mr Acting Speaker. The observation by the backbench of the Liberal Party is that it is okay because the suburb is still intact is reasonable to reflect upon, but we will not and we will go on with this matter.

The minister has the opportunity to insert just a tiny safety net for the people who will be caught up in this future system, a system that the minister will impose on prison officers, many of whom may be completely innocent of the accusations laid against them that result in the loss-of-confidence motion. Nevertheless, they may be compelled to give up on their appeal because of economic circumstances resulting from the legislation the minister has written, which does not provide them with any safety measures.

Mr J.R. QUIGLEY: I will respond on behalf of the minister: "No, I will not accept this amendment because it puts in the hands of an independent body the power to override me!" No conservative minister ever goes along with that. The Liberal Party came along to this Parliament to oppose the police getting a right of appeal for being suspended without pay. Why would members opposite come along here and extend to hardworking prison officers and youth custodial officers that which would cause them to be transparently reviewed? No Liberal minister has ever agreed to a proposition such as that, and we can go back 40 years! The reason why I go back in history is that it was a Belgian-born American philosopher—whose name I just cannot pronounce at the moment and who I think died in Germany—who said that those who forget history are doomed to repeat it. I do not forget the history of my life at least, and I recall that when a Labor government came along to this very chamber and proposed that there be an ombudsman in Western Australia, the Liberals fought it tooth and nail. They were not going to have an independent authority review the actions of their agencies. That is going right back to the 1970s in the government of "Honest John" Tonkin. We can go back as far as we like and at every turn, whenever there has been a proposal to put into legislation a right of review of a minister's actions or decisions, conservatives have always opposed that. I do not know why it is. I do not know whether it is in the DNA of the born-to-rule. I

do not know whether it is genetically inherited: we are always right and we are not subject to review! It is inconceivable that a person whose whole life and his family's life could be thrown on the scrapheap by a wrong ministerial call could not have a right to independent review. This is not seeking anything more than an independent umpire, the Western Australian Industrial Relations Commission, to review whether he should continue to be paid. I can understand the minister wanting to hold the axe and not wanting anyone to review the basis of his decision, because if the Industrial Relations Commission says, "Pay this man", the minister would consider it a personal slight—unnecessarily, but that is how the minister would view it. In this very modestly framed amendment, what is there to object to? Nothing! It proposed that an independent person, removed from the cut and thrust of politics, gets to review the decision made by a minister, which decision could impact upon the whole life of an officer and the lives of others—namely, his wife and children.

Even though I rose to ironically or with some sarcasm respond on behalf of the minister saying, "No, member, you're not going to get your amendment", that was only me forecasting what was going to happen. I strongly recommend and commend the amendment. It does not take away the minister's power or his right to make a decision, but it grants to the innocent a right of appeal, and who in a western democracy would want to deny that?

Mr D.J. KELLY: I paused for a minute because I hoped the minister would get on his feet and justify voting against this amendment.

Mr J.R. Quigley: I thought he might say that it was reasonable and go along with it.

Mr D.J. KELLY: That would be very pleasant. In all seriousness, I can understand why the minister does not want a system whereby the employee can drag the process out for such a long time that we never get to the end of the process and the government ends up paying someone, against whom the minister believes he has a strong case, for years and years. We have to have a system that has the proper checks and balances in it. At the moment, under this legislation, the minister is just loading up measure after measure that gives the minister absolute comfort that no employee will string it out, but the minister has gone to the point at which he is now stacking the cards heavily in his favour. The minister is going beyond what I and members on this side of the house consider reasonable, with checks and balances to ensure that people do not string it out. The minister has gone way beyond that and is stacking the cards in such a way that it will plainly play out so that the employee will be placed under financial stress very quickly in the process, rather than it being an even process that gives everybody an opportunity to have matters dealt with fairly.

The amendment we have moved that seeks a last right of appeal from the Western Australian Industrial Relations Commission on the issue of the employee continuing to be paid is a very modest option for the employee. Industrial relations commissioners are not stupid. If an employee makes what the minister calls a frivolous claim and seeks from the commission continuation of their payment and the claim has no merit, they will not get anywhere with the commission. In fact, if an employee is going to play the system, they will know that going to the commission and pleading their case will be fruitless. Only employees in financial hardship who have a genuine case to argue would even contemplate wasting their time going to the Industrial Relations Commission to get a maintenance period extended. When governments appoint industrial relations commissioners, they do not appoint people who willy-nilly go around overriding decisions of government employers or ministers. They just do not do it. Getting an industrial relations commissioner to give a government a kick up the backside is like pushing the proverbial uphill with our nose. This amendment is a modest measure to put some degree of fairness back into the system so that employees can go through this process without being starved out of it. It is such a modest measure that the minister should consider it.

I hope that the minister is not the type of person who thinks, "No matter what the opposition argues, I will not accept any amendments because it's a badge of honour. I'm a government minister; I just have to say no, no, no. If I don't, my colleagues in cabinet will think I'm a hopeless minister if I listen to an argument put up by the opposition." The minister could agree with this very modest measure and it would give some degree of comfort to employees that they will not be starved out of the system when they have a legitimate case to argue.

Mr F.M. LOGAN: I understand that the minister will stand in a minute and dismiss this amendment because he does not agree with it. He will come back to his argument that this provision to be included in the Prisons Act will speed up the disciplinary process of dealing with what he believes are errant prison officers or possibly dealing with criminal action by a prison officer who should not be working in the prison system. Unfortunately, he has not backed up his claims with a huge number of examples to justify these provisions. It was worse the other night because the minister could not define the difference between a performance-related issue under the disciplinary process and the Public Sector Management Act and the same issue under the CEO's lack-of-confidence provisions in this bill. Bear in mind, member for Warnbro, that his amendment will include some fairness for people who have been stood down by the CEO under the lack-of-confidence provisions in this bill due to their lack of performance. That is in the definition; it is not because they are criminals, have been associated with bikie gang members or have been smuggling drugs into the prison. It could come down to the issue of their work-related performance. The other day when I tried to get the minister to define the difference

between which provision would apply—was it the disciplinary process under the Public Sector Management Act or the disciplinary process under these lack-of-confidence provisions—he could not do it. We can only assume that both will apply and it will be at the CEO's discretion which one he will use to get rid of someone. The quickest way to get rid of someone is to invoke the lack-of-confidence provisions.

Once the bill comes into force, this issue of fairness around the payment of wages will come into play as well. We are talking about the one or two really bad officers the minister keeps pointing to. This could also apply to someone who has been stood down on the basis of lack of confidence by the commissioner in their work-related performance. This provision could play out that way because this bill will amend the act to allow that. The definitions clearly state that the commissioner can apply his lack-of-confidence provisions on the basis of performance, and that is just not the right thing to do. It will not resolve the issues the minister has referred to regarding bad apples within the system. There is no evidence to show that it will change the culture within the prison system one iota, but it will shift the balance of industrial power more firmly in favour of the CEO to the point at which the CEO can terminate someone's employment and demand they answer questions. The prison officer will have no right to be properly represented in an interview; they will be required to answer questions and they can be stood down ultimately without pay. This is bad, unfair law. The bill should be rejected but if it is not going to be rejected, this amendment should be agreed to.

Mr J.M. FRANCIS: I am not going to accept the amendment, obviously, thank you very much, member for Mindarie, for speaking on my behalf.

Mr J.R. Quigley: Butler.

Mr J.M. FRANCIS: The member for Cockburn's comments were not particularly relevant to the amendment that the member for Warnbro moved, but I will address them now rather muck around after we divide. I will genuinely try to put some flesh on the bones for the member for Cockburn.

Point of Order

Mr J.R. QUIGLEY: The minister inadvertently called me the member for Mindarie, and I did not hear him correct it. It is the member for Butler. I want to make sure Hansard got the correction.

The ACTING SPEAKER (Mr N.W. Morton): He is the member for Butler. Continue, minister.

Mr J.M. FRANCIS: I do apologise.

Debate Resumed

Mr J.M. FRANCIS: To put flesh on the bones, in all seriousness, I refer the member to the thrust of this from the police. I will put on the record examples of conditions under which the commissioner's confidence can be called into question. I expect that when the Commissioner for Corrective Services proclaims similar provisions for prison officers, it will be pretty much comparable, so that should give the member for Cockburn some guidance. The conditions state —

> Without limiting the matters to which the Commissioner of Police may have regard, confidence may be lost in an officer where on information or material is considered that the officer —

It can be either one of the following —

- Lacks integrity or honesty;
- Has been untruthful, including at an internal interview, before a selection panel, a tribunal, or a Court;
- Has shown a lack of ethical judgment;
- Has, or had, an improper association;
- Has demonstrated a failure to carry out the duties of office;
- Has demonstrated an inability, or an unwillingness, to comply with standard operating procedures;
- Has displayed an attitude that demonstrates inability, or unwillingness, to accept responsibility for their actions, or accept, instruction, education or training with respect to duties as a police officer;
- Having engaged in conduct that is suspicious, fails to provide a satisfactory explanation for the conduct;
- Due to their conduct, gives rise to a reasonable doubt that the officer will be able, or willing, to carry out duties with sufficient integrity or competence;
- Has failed to give a satisfactory explanation for conduct, or other matters, of which the officer has knowledge;

- Has failed to comply with a lawful order;
- Has refused to submit to an interview without a satisfactory excuse;
- Has engaged in serious misconduct;
- Has used unnecessary or excessive force against another; or

That could well happen in the prison system. The list continues —

- Has committed or has been charged or convicted of a criminal offence.

It is the expectation of the government and the Department of Corrective Services that the use-of-force provisions will not override procedures within the Public Sector Management Act. They will not be used on regular occasions; they will be the exception rather than the norm. I have complete faith that these provisions, once enacted, will be used in a responsible and reasonable manner.

Mr P. PAPALIA: I want to quickly refer to the list the minister just read out and ask: which one of those items on that list would now not normally result—had an officer committed one of those offences or one of those failures—in disciplinary processes, referral to the Corruption and Crime Commission and/or an investigation and prosecution by Western Australia Police? Which one of those items on that list does the minister believe is not adequately covered by the current measures—by current legislation and the current disciplinary process? I do not condone any of those things the minister has listed; not one of those things would the opposition object to an individual being disciplined for. The whole question we are left with is: why is this legislation needed? Is the minister saying that those things are now okay? Is the minister telling us that in the Department of Corrective Services right now every one of those things on that list is quite acceptable and is not subject to any action by the department, and that management in the department is allowing that sort of activity to go on without any action? Or is the minister suggesting that those sorts of things cannot be dealt with through the provisions of the CCC act or normal criminal law legislation in Western Australia and be investigated by Western Australia Police, or, alternatively, through the Public Sector Management Act, particularly for youth custodial officers because they are subject to it already? What is the minister's claim? Do not read out a list that we already know is wrong and should be dealt with. Is the minister saying that his department is failing to deal with those matters right now? Is that what he is claiming?

Mr J.M. FRANCIS: As I have said numerous times—I think we have been on this clause now for almost four or five hours—loss-of-confidence provisions will allow the Commissioner of Corrective Services to deal with these matters in a much more expedited manner. Of course, not all the things on that list are subject to either referral to the CCC or prosecution under the Criminal Code. As I have said many times, this is an issue of giving the commissioner an ability to expedite the process. The claim that police officers should have the right to remain in office unless found guilty of a criminal disciplinary charge is outweighed by the community's right to have a mechanism that will ensure that only those of the highest integrity remain in the force, and I expect exactly the same standard to apply to the Department of Corrective Services and its officers.

Mr F.M. LOGAN: I thank the minister for providing that further information as to how the process works in terms of the police department, because it was not dealt with the other night. But I do ask, following on from the member for Warnbro, of that list of provisions that applies for disciplinary process for lack of confidence in the police force, which, if any, of those provisions the minister read out are unable to be dealt with —

Mr J.M. Francis: By the CCC?

Mr F.M. LOGAN: No, under the current legislation that applies to prison officers working in the prison system, including the Public Sector Management Act, and the normal award processes—employment provision processes—that are in place? Which of those cannot be dealt with, and therefore justify this legislation?

Mr J.M. FRANCIS: The disciplinary process is a different process—again, we went through this at length the other night. Loss of confidence is not linked to guilt or innocence or any standard of proof as in a criminal trial, although it may be relevant that the officer has been found guilty of a criminal or disciplinary offence. Public confidence cannot be maintained if the officer can only be removed following a formal hearing. Member for Cockburn, without going back through the list, there are a number of things here—going back to the first question—that would not be referred to the CCC and would not be subject to prosecution under the Criminal Code, such as showing a lack of ethical judgement, lacking integrity or honesty or being untruthful before a selection panel or court. Obviously, lying to a court would be subject to a different procedure. The list continues —

> Has displayed an attitude that demonstrates inability, or unwillingness, to accept responsibility for their actions, or accept, instruction, education or training with respect to duties as a … officer.

There is a number of different things there that would be referred to the CCC that would not be subject to the Criminal Code, but that any fair and reasonable person would think would mean someone would not be suitable

to continue in the job. The key point here is that prison officers are not subject to the Public Sector Management Act at this point in time.

Mr F.M. LOGAN: The only ones the minister has drawn my attention to are those not subject to existing legislation, but are dealt with by an act of Parliament; if the minister is saying it is not the Public Sector Management Act, it will be the Industrial Relations Act.

Mr P. Papalia: Or the Prisons Act.

Mr F.M. LOGAN: Or the Prisons Act.

All those provisions the minister just read out that he said therefore justify this legislation are already dealt with by a number of acts of Parliament, and, more particularly, all the policy guidelines in the minister's department, including his existing power to suspend. All those other issues that the minister says justify the existence of this legislation are already dealt with by existing pieces of legislation. If it is not the Public Sector Management Act, it would be the Prisons Act, the Industrial Relations Act or the normal policy procedures for the department that are simply management policies.

Mr J.M. FRANCIS: I have referred to the case of Carlyon in previous consideration of this clause. In that case the Industrial Relations Commission endorsed the approach that had been taken by the commissioner under the previous administrative procedure that provided for the removal of police officers. In relation to what the commissioner needed to be satisfied of, according to my notes, the commission stated —

> …it is not necessary that the Commissioner establish that the police officer concerned is guilty of misconduct, but simply that there be a proper basis upon which the Commissioner of Police could conclude that the conduct of the police officer in question was of such a nature as to put the public confidence in the Police Force in jeopardy.

I think it is perfectly appropriate to apply exactly the same standards to prison officers within the Department of Corrective Services.

Mr P. PAPALIA: Clearly, the minister is not countenancing any of our amendments, despite this one being quite reasonable. I think they are all reasonable, but if the minister was in any way interested in displaying the slightest amount of concern over fairness, this would be an acceptable amendment. But beyond that, I want to follow up on the member for Bassendean's commentary regarding ministers who accept amendments and those who do not, and also departments that accept amendments, having drafted legislation, or advisers who provide legislation and refuse to countenance change.

There was a predecessor in the minister's portfolio who actually listened to proposals during consideration in detail and was willing to accept an amendment from the other side of the house if he felt that that amendment made the legislation better and no doubt fairer. As well, and quite sadly, the former Treasurer, who is in a bad way, probably more than any other minister in the current government was willing to consider amendments from this side of the house. On many occasions I saw him listen to the argument, discuss the proposal and sometimes amend the amendment, but then adjust the legislation. Does the minister know what message that conveyed to the people that were going to be affected by that legislation? It conveyed the impression that he was willing to try to work towards getting the best possible outcome. He was not bull-headedly pushing ahead and refusing in an obstinate and arrogant fashion to consider the impact on the workforce. Ministers and departments that do not do that convey the impression that they do not care about their workforce.

This goes back to the initial contribution I made during the second reading debate about leadership. It is not good leadership to send a message to those whom you are trying to lead that you do not care about them. It is not good leadership to devolve all responsibility for any failures to somebody else and accept only praise and accolades for the things that turn out okay. That is a bad message. If the minister is going to be a leader, then he should lead. If the minister is going to take responsibility and claim that there is some major cultural challenge afflicting his department and he wants to pursue changing that culture, then he must know that the very basic first step in change management is to engage with the workforce. It has to take ownership of the change. People cannot be compelled to change through an edict from above. It is the most basic of management principles: the only way to effect widespread cultural change in any organisation is to have the members of that organisation believe in the objective and take ownership of the change. One does not do that by introducing a bit of legislation that conveys only one message and that is: "We do not trust you; we want to have the power to inflict pain on you and we want to be able to threaten you with dismissal without any recourse." That, essentially, is what it is. There is no fairness in a process that has a limited appeal, a limited maintenance payment period and a limited opportunity to extend that maintenance period for a workforce that is not wealthy. Those workers do not have a great opportunity to extend their revenue stream in the event that they are stood aside by the commissioner.

As has been indicated through the example given to us by the member for Butler, it may be for an unfair situation. It may be that the individuals caught up in this process are actually innocent. They may be like now Superintendent Castle, who happened to be a prison officer in the emergency support group unit. He just

happened to be on duty that day, was accused of something by a criminal, then lost his position for two years while he fought the appeals process. Under this government's legislation they would not get that process. It may be that those people would be treated in an unfair fashion and the minister is not accepting any amendments and sending a really negative message to the workforce. I cannot understand it; I cannot fathom why the minister is doing that.

Mr J.M. FRANCIS: I point out to the member for Warnbro that currently under the act if an officer is eventually removed with 28 days' notice and on day 27 they put in an appeal, they will only get one day's pay. They do not get it continued. In this bill, in exceptional circumstances, the minister may consider extending that for up to six months.

Mr P. Papalia: Are you suggesting that you do not need to introduce the legislation and you can kick them out after 28 days?

Mr J.M. FRANCIS: No, member; what I am saying is that the minister, in exceptional circumstances, may consider continuing to pay the officer for up to six months. If an officer is removed under the current process, which, as I have said, is prolonged in many cases, they only have 28 days' notice and even if they put in an appeal at any time, they will only get the balance of that 28 days' notice in pay. I put it to the member that this is a far fairer system when it comes to having checks and balances for someone who may wrongly—if that happens—be subject to loss-of-confidence provisions. It is up to six months at the discretion of the minister for exceptional circumstances compared with the current absolute limit of 28 days.

Mr P. PAPALIA: This is my last, quick contribution. Clearly, we are not going to agree on this but I do want to elicit a clarification from the minister for *Hansard* and guidance for anyone reading this in the future. Is the minister definitely saying that the circumstances he envisages these processes being employed in would only be in absolute exceptional circumstances?

Mr J.M. FRANCIS: Yes, absolutely. I make it crystal clear; there are varying circumstances but they are exceptional circumstances that give rise to the Commissioner of Corrective Services losing confidence in an officer's suitability for all the reasons stated in the bill.

Division

Amendment put and a division taken, the Acting Speaker (Mr N. Morton) casting his vote with the noes, with the following result —

Ayes (18)

Ms L.L. Baker	Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson
Dr A.D. Buti	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.H. Cook	Mr M. McGowan	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*
Ms J. Farrer	Mr P. Papalia	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr J.R. Quigley	Mr P.C. Tinley	

Noes (31)

Mr P. Abetz	Ms E. Evangel	Mr S.K. L'Estrange	Mr D.C. Nalder
Mr F.A. Alban	Mr J.M. Francis	Mr R.S. Love	Mr J. Norberger
Mr C.J. Barnett	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr D.T. Redman
Mr I.C. Blayney	Dr K.D. Hames	Mr J.E. McGrath	Mr A.J. Simpson
Mr I.M. Britza	Mrs L.M. Harvey	Mr P.T. Miles	Mr M.H. Taylor
Mr M.J. Cowper	Mr C.D. Hatton	Ms A.R. Mitchell	Mr T.K. Waldron
Ms M.J. Davies	Mr A.P. Jacob	Mr N.W. Morton	Mr A. Krsticevic *(Teller)*
Mr J.H.D. Day	Dr G.G. Jacobs	Dr M.D. Nahan	

Pairs

Mr M.P. Murray	Mr T.R. Buswell
Ms J.M. Freeman	Ms W.M. Duncan
Mr D.A. Templeman	Mr G.M. Castrilli

Amendment thus negatived.

Mr P. PAPALIA — by leave: I move —

Page 12, line 14 — To delete "section" and substitute —

subdivision

Page 12, after line 25 — To insert —

(d) fourth, it must consider the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a prison officer.

Page 12, lines 26 to 30 — To delete the lines.

Page 13, after line 13 — To insert —

; and

(c) the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and is no longer a fit and proper person to hold a position as a prison officer.

Page 14, lines 5 to 13 — To delete the lines.

Page 15, after line 30 — To insert —

; and

(c) the WAIRC must allow the appellant to amend any reasons why the dismissal was harsh, oppressive or unfair.

Page 19, line 12 — To delete "(not exceeding 12 months)".

Page 21, lines 13 and 14 — To delete the lines.

Page 22, lines 2 to 6 — To delete the lines and substitute —

element of an offence of which the prison officer has been convicted.

Page 22, after line 30 — To insert —

(3A) A prison officer aggrieved by the period of suspension may appeal the chief executive officer's decision under section 103(5).

As discussed, and in the interests of moving along with the legislation, the remainder of the amendments are in identical fashion—namely, they are not only aimed at introducing fairness or what we believe to be the need for fairness in this legislation, but also aimed at removing some of the more onerous components. They reflect what we have said to date about this legislation: the bill is largely unnecessary, but if we must have it, the minister should try to constrain it to those people who are corrupt or have broken the law.

At the moment, the vast majority of prison officers who get caught up in their disciplinary process and certainly other youth custodial officers who get caught up in their disciplinary processes—I am talking about prison officers here—do not need any new legislation. They just need to be managed in an appropriate fashion. If there is an ongoing process—that is, taking a long time and it is minor in nature—that should be dealt with through the management process. It should be dealt with through proper leadership at all levels. Individuals should be dealt with in a fair and appropriate fashion; we would never dispute that. I have no doubt that amongst a prison officer workforce comprising a couple of thousand people there are corrupt individuals. I have no doubt that there are people who are breaking the law—we know that. It is just like any workforce; it is not extraordinary. I know the minister likes to huff and puff about how there is a corrupt culture; he likes to wave his arms about to suggest that he is the one who has come to solve the world's problems; that he has discovered corrupt matters that no other Barnett government corrective services ministers have been able to identify. The minister is the only one who has been able to find this failure that he has identified and now he will resolve it through this legislation. I know that. I know he would like everyone to believe that the Department of Corrective Services is incredibly corrupt, but I do not believe that. I think there are corrupt individuals—numbers of them. There are individuals out there breaking the law in their department—doubtless; undeniable, because it is about prisons! The former Minister for Corrective Services in the house knows it. Everyone knows it; that is true. However, I do not buy the suggestion that it is overwhelming. I do not buy the suggestion that we need this legislation to deal with corruption because we have got some quite powerful legislation in the form of the Corruption and Crime Commission Act 2003.

I know we have a good police service in Western Australia. I know we have people capable of investigating that type of matter and dealing with it. We just need appropriate leadership and management of individuals below those levels of indiscretion and failure. We do not need this legislation to deal with those people. For those levels, we need them to be referred to the proper agency or agencies for action. That is it. There is no evidence, nor has the minister produced any evidence, of this overwhelming challenge that he is confronting. Yes, we know juvenile detention is a mess, but the minister did that—not the minister personally, but his government did it. It shut down one of only two juvenile detention facilities. What else did the government think was going to happen? It was bound to collapse.

Turning to adult custodial facilities, in the first 18 months of the minister's government, we saw the prison population increase by 27 per cent. What else did the government think was going happen? Did the minister think it was going to make it more efficient by adding an almost 30 per cent workload to a department? What other department in the Western Australian government could absorb a 30 per cent increase in its workload in 18 months and not collapse? I reckon the Department of Corrective Services has done pretty well in light of what

the government has done to it. The government has increased the cost of running the department by 57 per cent! It is extraordinary that the minister should then turn around and try to blame the workforce by introducing legislation of such a nature that suggests the workforce is all at fault. That is what is extraordinary. It is not what the workforce is doing; it is the government that is extraordinary. That it would seek to blame the people suffering under the consequences of this government's action, its ineptitude, its mismanagement and its lack of resourcing, is the real story here. None of that has changed. This legislation is a sham. The government has made no pretence of introducing any statistics or data to support its argument. It has provided no real argument for changing the status quo other than —

Point of Order

Mr F.M. LOGAN: I seek that the member continues. I am asking for an extension. I am trying to get a point of order in order to stop him!

The ACTING SPEAKER (Mr N.W. Morton): You cannot do it by way of point of order. The member needs to sit down. There is no point of order. The member needs to wait until the member for Warnbro has sat down, and then you can stand up, take the call and give it to the member.

Debate Resumed

Ms S.F. McGURK: I would like to hear the member for Warnbro continue his point. Thank you.

Mr P. PAPALIA: Thank you. The extraordinary thing about that whole little interlude is that I was building to a crescendo with a view to sitting down!

Mr J.M. Francis: I would have given you the time!

Mr P. PAPALIA: I know!

Mr F.M. Logan: I was trying to help you!

Mr P. PAPALIA: I appreciate the sentiment from the member for Cockburn. I thank him very much.

If I am extremely generous I can suggest that the legislation is well meaning, but I do not think it is motivated by the right sentiment. I do not think it will send a good message to a workforce that deals with some serious issues. They are confronted, as are all departments, with individuals—a dozen, however many people who are out there—who do corrupt things. There are however many people out there breaking the law who should not be. I say deal with them to the full extent of the law. I say throw the book at them! Get rid of them from the department. Unburden the department of individuals who are doing the wrong thing. I do not defend them, but I think the minister has the powers to do that right now.

There is some pretty powerful legislation in this state that enables the minister to deal with that. I do not think this legislation is needed. Apart from depriving a workforce of some of its current rights, as has been very astutely pointed out by some pretty experienced industrial relations players, this legislation also sets up this workforce for a big pay rise in the event that the minister imposes the same responsibilities and onerous provisions that apply to a far higher paid workforce in the police. That is one of the things it does. The other thing it does is tell prison officers that they are not valued. It is perverse in a way. The minister will put all these responsibilities on them that may result in them having a good shot at a pay increase but he is also telling them he does not trust them! The minister wants greater powers to hit them with a big stick. He wants to threaten them. That does not bode well for a changed management process.

I concede that the minister is out there saying he wants to change the Corrections culture—that is good. Some of the things to which the minister aspires are on the record, such as changing the focus from locking people up to preventing the committing of crimes in the first place and reducing recidivism. Of course I support that because I told the minister about it four years ago. That aside, the minister will find it pretty difficult with the person who sits behind him to the left because she has said she will massively increase the workload of the prison system. The minister is saying to the people in this workforce that he does not trust them. That is really difficult. If the minister is in the process of trying to engage in mass cultural change, it is fundamental that he engages with the workforce and lets them take ownership of the change. It cannot be applied from the top; it cannot be imposed upon a workforce. That is basic management; it cannot happen. The minister faces the challenge of overcoming that bad message as he pushes ahead with this legislation. No doubt in the course of selling this legislation out there as part of a package that he is solving the world's problems and that he is the knight in the white Charger, he will have a crack at the department's widespread corruption. He will further diminish morale and further undermine engagement of the workforce. He will further suggest to them that he does not trust them.

The minister gave lip-service to prison officers in his second reading speech, but they are the ones who hear the bad message in the media. When the minister attacks the Department of Corrective Services, prison officers feel that they are being attacked. It is just a natural human reaction. It is disappointing and sad. We have tried to make it fairer. We tried to soften the impact and ensure at least there is fairness in the outcome. The fact that the minister will not even contemplate any of our amendments is disappointing. I have already indicated to the

minister that without any of our amendments going through there is not much chance the Labor Party will support this legislation. That is a pretty obvious outcome, I would have thought.

Mr F.M. LOGAN: I believe that the member for Warnbro's amendments were packaged up and moved in two —

Mr P. Papalia: This is in one block.

The ACTING SPEAKER: It was moved en bloc.

Mr F.M. LOGAN: We are not onto youth custodial officers? Sorry. Thanks, Mr Acting Speaker.

As the member for Warnbro just informed the house, the way in which the government has gone about this, as I said the other night, is basically using a bulldozer to crack a nut. It is not using a hammer to crack a nut; it is using a bulldozer to crack a nut. The minister has taken us to the number of incidents that have led to disciplinary matters including criminal matters, illegal matters and possible illegal matters involving prison officers, either with criminals within the prison system or criminals outside the prison system, or in fact in their own behaviour as prison officers. The number who have transgressed is a very small proportion of the entire prison officer employment numbers. For example, in 2012–13, 20 prison officers were found guilty of a breach or resigned while under investigation. Many of those were for minor breaches. That is 20 out of 2 000 prison officers. The number of prison officers charged with trafficking contraband into public prisons over the past three years is three out of 2 000. These issues have to be put in perspective. That is not to say the minister does not deal with those issues. Every government in power has to deal with those types of issues, whether they are the passing on of illegal contraband, disciplinary matters or criminal matters involving prison officers. Every government has to deal with it. This government and this minister are dealing with it in a heinous way as far as the opposition is concerned. There is no need to bring these provisions before the house. The minister has not justified why these provisions should be inserted into the Prisons Act.

There are very good reasons that the member for Warnbro's amendments should be adopted. They would make the bill before the house a little more sensible, practical and easier to use and, most importantly, a lot fairer when dealing with prison officers. The member for Warnbro highlighted the issue of cultural change and managerial leadership. That is the most critical point in bringing about change within any organisation, particularly in prisons. It is an issue that has not been dealt with properly by the current Minister for Corrective Services. He has decided to bring about cultural change by bringing this legislation into the house that changes the Prisons Act, that changes the nature of the relationship between the CEO of prisons and his employees, and basically gives the CEO far more extensive powers than he has had before—powers similar to that of the Commissioner of Police. We have been through the whole debate about the differences between police officers and prison officers. There is a world of difference between their job requirements, yet this minister continues down the path of wanting to smash a nut with a bulldozer rather than allowing his new CEO to get on with bringing about genuine managerial and cultural change within the prison system with existing legislation and existing policies. He has not allowed that to occur.

Mr J.M. FRANCIS: I will touch on a couple of those points very briefly. I am very aware, and I would like to think everyone is, that there is a need for structural and cultural change in a number of different areas within the Department of Corrective Services. That is happening. Some people like that; some people do not like that. It is happening at every level within the Department of Corrective Services. It started with a new Commissioner of Corrective Services. It will happen regardless of the fact some people may or may not like it. This is just another tool that the Commissioner of Corrective Services will use, on the rare occasions that it is required, to expedite processes when he has lost confidence in an officer. I will not go over it all again.

I also point out that while I accept that not all prison officers are in favour of this, some prison officers are. The public has an expectation that all prison officers maintain the highest levels of integrity. Prison officers are charged with certain powers with which no other public servants in Western Australia other than the police are charged. They have a number of significant powers that in many ways are similar to those given to police officers, such as the ability to restrain and the ability to deprive someone of their liberty to a greater extent than being in an ordinary prison cell by putting them into the segregated housing unit or using different sections of the Prisons Act to effectively relocate prisoners to what are known as punishment cells. They have a number of different powers that demand that 100 per cent of them display the highest level of integrity 100 per cent of the time. Prison officers carry out a very difficult job and I know the member for Warnbro will agree with me on that. It is a noble profession and prison officers should be very proud that they meet a certain standard expected by the community. To raise the bar a bit higher with this bill will allow prison officers to stand taller and say that they meet this standard. There is no room in the Department of Corrective Services for officers who do not meet that standard. As we know, 98 per cent of them meet the standard and roughly two per cent do not. As I said, that should be 100 per cent of them, 100 per cent of the time. The day this bill becomes an act should be a proud day for prison officers because they will be able to say that they meet the standard and have nothing to worry about. The community can rightly accept that prison officers meet that standard because if they did not, they would not be here. I see it from a different point of view.

Mr P. Papalia: My view would be that the vast majority of the public already respect prison officers and it is a very small percentage of prison officers who do the wrong thing, just as a small percentage of police officers do the wrong thing. I do not think this legislation will contribute what you think it's going to contribute. I think you've done some damage through introducing this process.

Mr J.M. FRANCIS: Police officers meet the standard. There is no room for police officers who do not meet the standard. There is no question in the public's mind now that if a police officer does not meet the standard, they will not be in the job too much longer.

Mr P. Papalia: Why is there for prison officers?

Mr J.M. FRANCIS: We know that there are cases in which prison officers through various means have fought the inevitable for far too long and been paid by the taxpayers of Western Australia when they did not deserve to be. This will help deal with these situations in exceptional circumstances.

Amendments put and negatived.

Clause put and passed.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.

ELECTRONIC CONVEYANCING BILL 2013

Third Reading

Resumed from 11 March.

MR C.J. TALLENTIRE (Gosnells) [5.07 pm]: The Electronic Conveyancing Bill 2013 has been well discussed by members of this place and the other place. We have had interesting discussions around the scale of electronic conveyancing of property in Western Australia. It has been stated that in Western Australia some $43 billion worth of property was transacted through the conveyancing process in the last financial year. We can look forward to that amount at least being transacted in coming years. Bearing in mind that this electronic conveyancing system is a national system, we are creating an electronic platform for the transfer annually of some $430 billion worth of property. It is an enormous undertaking to ensure that the electronic platform can handle that amount of activity. On a national scale it will involve about a million property transactions. As was said during the second reading debate, the state of Western Australia is a shareholder in this electronic platform company known as National e-Conveyancing Development Limited company, which comes under this system known as PEXA. Western Australia's shareholding is 15.9 per cent. The value of our shareholding, as I understand it, is $22.5 million. In other words, that means, if I have my arithmetic right, the value of PEXA is some $140 million. I find it fascinating that public ownership has been critical to the creation of this body. It is principally state-owned; the four major financial institutions have come in as shareholders, but they were not originally. A lesson for this Parliament is that public ownership of key assets is vital to their success. I know some on the other side do not believe in state ownership of assets. They do not believe in public ownership of important assets. This electronic platform has been developed at the fairly modest sum, we might say, relative to the sums it will handle, of $140 million and it will handle transactions nationally worth $430 billion. There is an enormous amount of conveyancing activity involving a million transactions a year across the nation. That has been driven by public investment. The private sector would not have been able to do it. We cannot always rely on the private sector to bring about the sort of structure and capability that we need with this platform.

We often talk in this place about how expensive information and communications technology is for government and how often government gets ICT wrong. I contrast this investment with the ICT work that has been done for, say, Fiona Stanley Hospital. It is fascinating to make that comparison because it is my understanding that we have ICT works there that are valued at somewhere around $600 million. This is for Fiona Stanley Hospital—ICT works there over the lifetime of that project, to be done by the private sector, costing in excess of $600 million. Contrast that with the $140 million required to manage all the transfers that will be done through this electronic conveyancing system across the nation—a million transactions a year, worth approximately $430 billion. I find it fascinating that we have seen in this case a very good application of public funds to achieve a good result.

The opposition supports this legislation; it is legislation that will make life much easier and make for much greater efficiencies for settlement agents, lawyers involved in property settlements and financial institutions. It was brought up by the minister in his response to the second reading debate that the savings would come about because things could be done electronically. I do not know that he quite got to the point that it saves them having to give up time going to a Landgate office, in the case of Western Australia. That is where their real saving would be. I hope and trust that that saving will be passed on to consumers. The minister indicated that because we are in a market system, we can hope that that saving will be passed on. I hope that is the case, but I think it remains to be seen.

This debate has been useful, and the discussion and the work of the committee in the other place covered many aspects of the detail and found it all to be as satisfactory as we have. Western Australians and, indeed, Australians generally, can look forward to being able to transact properties more efficiently and hopefully more cheaply into the future, and that is something that is critical to underpinning community confidence in our management of the sale of properties, ensuring that we retain those strengths that are inherent in our Torrens title system, without opening ourselves up to any fraudulent attempts at property negotiations or transactions. Hopefully with this legislation we have seen some further tightening up of the system. The minister pointed out that the system was vulnerable in certain areas and that we have inserted provisions—clause 77, I believe—that should go some way towards tightening things up. I maintain that that clause could have been made even tighter, and only time will tell if it is going to be tight enough. If we hear of further fraud going on in relation to property transactions, then we will know that we have not done our due diligence, but I trust that the wording is enough. I believe that the wording is actually particular to Western Australia; I am not sure if it is the same wording that has been used in other state acts to tighten up that particular area of fraud, but that is something that maybe even at this final third reading stage the minister might be able to address. There is consistency here because it is part of a national intergovernmental agreement, but I am not sure that the inclusion of the word "may" in clause 77 is the same in other states.

We look forward to seeing Western Australians transact property electronically, recognising that for those who wish to stay with the current paper-based system, that is also an option. The duality of the system will be useful for many people. I support the legislation and look forward to its enactment.

MR D.T. REDMAN (Warren–Blackwood — Minister for Lands) [5.14 pm] — in reply: I thank the member for Gosnells for his contribution to the third reading debate. I will very quickly hit on a couple of points; it will not take long, I am sure. I thank all members who have made a contribution to this debate. This is essentially making contemporary legislation under a national partnership to ensure that we can fit into a system whereby we can take what is essentially one of the last bastions of paper warfare out of the game and move to electronic conveyancing. The member for Gosnells mentioned that he hoped that the efficiencies that will come out of this will come back to the user. An interesting point around that is that PEXA, which is the platform on which the electronic conveyancing will take place, has a commercial imperative to achieve that because if it does not, people will simply use the old paper-based system, so I think there is a commercial imperative for it to make sure it has efficiencies that are taken right back to the user. Indeed, because all the authorised users will be party to transactions, for them to get the job they are going to need to be efficient, and any efficiencies that they gain will be passed onto the customer, so there is competition in the marketplace.

The reason we as a state bought into the platform was market failure, simple as that. Now that we have done that, I think there may be a case down the track—the member might not agree—for us to exit it if it can stand on its own two feet. It may well be a good investment for the state, so there is another decision to be made down the track. It is contemporary and it is very robust around the fraud issue, and that is a very sensitive area for the community and it is very important to me and to the government that we have robust processes around the challenges of fraud. It will not only provide cost savings but also speed up the processes that we know right now are a bunch of people going to one place and handing over documents, which is a very inefficient way of managing transactions. With the passing of this bill, Western Australia will be party to what is already happening in the eastern states and have electronic conveyancing processes in place.

I thank members for their support of this legislation; it is a very, very robust bill, given that it went through an upper house committee without any concerns, and I look forward to it getting royal assent and therefore allowing Western Australians to be party to its outcomes.

Question put and passed.

Bill read a third time and passed.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT — DEPARTMENT OF THE PREMIER AND CABINET

Question without Notice 96 — Supplementary Information

MR C.J. BARNETT (Cottesloe — Premier) [5.17 pm]: In accordance with standing order 82A, I wish to correct information provided in an answer during question time on Tuesday, 11 March 2014.

On Sunday, 9 March 2014, only Ms Narelle Cant and Ms Rachael Turnseck were present at a meeting at Ms Turnseck's house. Mr Brian Pontifex was not present. I had inadvertently included him as being at that meeting; he was not there.

House adjourned at 5.17 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ASBESTOS — SWAN VIEW PROPERTY

1667. Mrs M.H. Roberts to the Minister for Local Government:

(1) Will the Metropolitan Cemeteries Board clean up the contaminated waste (asbestos) on Lot 11313 Myles Road, Swan View?

(2) If yes to (1), what is the timeframe for this work to take place?

(3) If no to (1), why not?

Mr A.J. Simpson replied:

(1) Yes.

(2) This asbestos was removed on 6 February 2014.

(3) Not applicable.

MINISTERS — AIR-CHARTER SERVICES

1686. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

I refer to the Minister's use of ministerial air-charter services, and ask, for the period since 11 August 2013:

(a) on what date or dates did the Minister use a ministerial air-charter service;

(b) what was the destination or destinations for each use of a ministerial air-charter service;

(c) what are the names of all persons on the manifest for each trip undertaken by the Minister using a ministerial air-charter service; and

(d) what was the additional cost associated with each use of a ministerial air-charter service outside the primary contract fee paid by the State?

Mr A.J. Simpson replied:

(a)–(d) Not applicable.

MINISTERS — HOSPITALITY AND OTHER BENEFITS ACCEPTANCE

1701. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries:

Has the Minister accepted any hospitality, invitation to an event, free accommodation or free travel from a private company or individual since 1 July 2013, and if so:

(a) what was the nature of the hospitality, event, free accommodation or free travel;

(b) what is the name of the individual or private company that offered them;

(c) what is the estimated individual value of the hospitality, event, free accommodation or free travel; and

(d) on what date or dates did the hospitality, event, free accommodation or free travel occur?

Mr D.T. Redman replied:

(a)–(d) Not applicable.

MINISTERS — HOSPITALITY AND OTHER BENEFITS ACCEPTANCE

1703. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

Has the Minister accepted any hospitality, invitation to an event, free accommodation or free travel from a private company or individual since 1 July 2013, and if so:

(a) what was the nature of the hospitality, event, free accommodation or free travel;

(b) what is the name of the individual or private company that offered them;

(c) what is the estimated individual value of the hospitality, event, free accommodation or free travel; and

(d) on what date or dates did the hospitality, event, free accommodation or free travel occur?

Mr A.J. Simpson replied:

(a)	(b)	(c)	(d)
West Coast v Geelong — AFL Game	Satterley Property Group	$500	17/08/13
Oration & Cocktail Function	MercyCare Trustees — Boards Executive	$80	
Cocktail Party	IGA Perth Royal Show	$60	15/10/13
Cocktail Reception	RAC	$100	23/10/13
Australian Hotel Association — Gala Ball	Bradley Woods (CEO/Executive Director of Australian Hotel Association of WA	$220	11/11/13
Perth Premiere of South Pacific	Opera Australia and John Frost	$100	14/11/13
22nd Annual Mayoral Christmas dinner	Satterley Property Group	$300–500	22/11/13
Christmas Celebration	The Chamber of Minerals and Energy	$100	02/12/13
End of Year Celebration	The Committee for Perth	$100	11/12/13
Luncheon	The Australia Day Council of WA	$120–130	21/01/13
Western Australia Cricket Association	(Ministered represented the Premier and the Minister for Sport)	Unknown	07/02/14

MINISTERIAL OFFICES — HOSPITALITY AND OTHER BENEFITS ACCEPTANCE

1720. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

Has any officer or placement within the Minister's office accepted any hospitality, invitation to an event, free accommodation or free travel from a private company or individual since 1 July 2013, and if so:

(a) how many officers have accepted any hospitality, invitation to an event, free accommodation or free travel from a private company or individual;

(b) what was the nature of the hospitality, event, free accommodation or free travel;

(c) what is the name of the individual or private company that offered them;

(d) what is the estimated individual value of the hospitality, event, free accommodation or free travel; and

(e) on what date or dates did the hospitality, event, free accommodation or free travel occur?

Mr A.J. Simpson replied:

With respect to any officer or placement within Minister Simpson office

(a) 8

(b)	(c)	(d)	(e)
Mozart and Mahler Perth Concert Hall 40th Birthday Celebration Chevron Australia Master Series	WA Symphony Orchestra	$100	23/08/13
Tickets to Opening night of Midsummer Play	Black Swan Theatre	$101–300	13/11/13
Storm Boy Premiere	Barking Gecko Theatre Company	$101–300	20/09/13
Cultural Event	Australia Day Council of WA	$130	21/01/14
Tickets to AFL final with corporate hospitality	Rio Tinto	$500 and over	21/09/13

MINISTERS / MINISTERIAL OFFICES — FTI CONSULTING

1735. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries:

Has the Minister and/or any Ministerial staff member or placement met with representatives of FTI Consulting since 1 July 2013, and if so:

(a) on what date(s) did the meeting(s) take place;

(b) who attended the meeting(s);

(c) what was the purpose of the meeting(s);

(d) where did the meeting(s) take place; and

(e) what issues were discussed at each meeting?

Mr D.T. Redman replied:

(a) 3 September 2013

(b) Hon Ken Baston MLC, Minister for Agriculture and Food
Mr Trevor Whittington, Chief of Staff
Executive Chairman, Wellard
Director, FTI Consulting

(c) Tour of the Wellard export vessel

(d) Fremantle Port

(e) Overview of Wellard's activities

(a) 7 September 2013

(b) Hon Ken Baston MLC, Minister for Agriculture and Food
Mr Vernon Ferdinands, Principal Policy Adviser — Agriculture and Food
Mrs Sonia Voigt, Media Adviser
Director, FTI Consulting
General Manager Middle East Division, Wellard
Manager, Wellard
South West Regional Director, Department of Agriculture and Food

(c) Inspection of Wellard's La Bergerie pre-export facility

(d) Baldivis

(e) Feedlot process for quality animals for supply chain

MINISTERS / MINISTERIAL OFFICES — FTI CONSULTING

1737. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

Has the Minister and/or any Ministerial staff member or placement met with representatives of FTI Consulting since 1 July 2013, and if so:

(a) on what date(s) did the meeting(s) take place;

(b) who attended the meeting(s);

(c) what was the purpose of the meeting(s);

(d) where did the meeting(s) take place; and

(e) what issues were discussed at each meeting?

Mr A.J. Simpson replied:

Between 1 July 2013 to 18 February 2014

No

(a)–(e) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES — GIFTS AND BENEFITS, NONACCEPTANCE

1747. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests:

In relation to all agencies, departments and trading enterprises within the Minister's portfolio of responsibilities that maintain a register of gifts and benefits offered to employees but not accepted, I ask:

(a) how many gifts or benefits have been offered but not accepted since 1 January 2013; and

(b) for each gift or benefit offered but not accepted since 1 January 2013:

(i) what was the nature of the gift or benefit;

(ii) what was the name of the individual or organisation that offered the gift or benefit;

(iii) what was the relationship of the employee to the individual or organisation that offered the gift or benefit; and

(iv) what was the estimated cost of the offered gift or benefit?

Mrs L.M. Harvey replied:

Western Australia Police

(a) None.

(b) (i)–(iv) Not applicable.

Tourism Western Australia

(a)–(b) Not applicable.

Rottnest Island Authority

(a) Two.

(b)

(i)	(ii)	(iii)	(iv)
Organisational event	Precedent	Customer	$50
Christmas reception	Dell	Customer	$50

Office of Road Safety

The Office of Road Safety is administratively supported as part of Main Roads WA and as such, the response will be included in the Main Roads response under the Minister for Transport.

Women's Interests

Women's Interests is administratively supported as part of the Department of Local Government and Communities and as such, the response will be included in the Department of Local Government and Communities' response under the Minister for Local Government; Community Services; Seniors and Volunteering; Youth.

GOVERNMENT DEPARTMENTS AND AGENCIES — GIFTS AND BENEFITS, NONACCEPTANCE

1754. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

In relation to all agencies, departments and trading enterprises within the Minister's portfolio of responsibilities that maintain a register of gifts and benefits offered to employees but not accepted, I ask:

(a) how many gifts or benefits have been offered but not accepted since 1 January 2013; and

(b) for each gift or benefit offered but not accepted since 1 January 2013:

(i) what was the nature of the gift or benefit;

(ii) what was the name of the individual or organisation that offered the gift or benefit;

(iii) what was the relationship of the employee to the individual or organisation that offered the gift or benefit; and

(iv) what was the estimated cost of the offered gift or benefit?

Mr A.J. Simpson replied:

Metropolitan Cemeteries Board

(a)	(b)(i)	(b)(ii)	(b) (iii)	(b)(iv)
6	Invite to V8 Supercar Motor Racing Event	Spices Catering	Director of Corporate Services: Delegated authority responsible for contract management and/or procurement of products and services	$100
	Invite to V8 Supercar Motor Racing Event	Spices Catering	Director of Finance: Delegated authority responsible for contract management and/or procurement of products and services	$100
	Invitation to Lunch	Turfmaster	Chief Executive Officer	$100

	Invitation to Lunch	Turfmaster	Director of Planning and Operations: Delegated authority responsible for contract management and/or procurement of products and services	$75
	Invitation to Lunch	Turfmaster	Landscape Designer, involved in the management of the turf laying contract	$100
	One letter of thanks received containing $100 cash	Mr Richard Hustwitt, a member of the public and mourner	Member of Burials Team, who interred a deceased person	$100

Department of Local Government and Communities

(a)	(b)(i)	(b)(ii)	(b) (iii)	(b)(iv)
1	Four Royal Show tickets	Royal Agricultural Society of WA	Assistance provided to resolve issues with Town of Claremont	$100

GOVERNMENT DEPARTMENTS AND AGENCIES — MEDIA TRAINING

1764. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests:

I refer to the provision of media training for staff within agencies, departments and government trading enterprises (GTEs) within the Minister's portfolio of responsibilities, and ask, for the 2013 calendar year:

(a) was media training provided to staff by any paid, external service provider;

(b) if yes to (a), what was the name of the media training provider; and

(c) if yes to (a), what was the cost of each individual agency, department or GTE media training for the calendar year 2013?

Mrs L.M. Harvey replied:

Western Australia Police

(a) No

(b)–(c) Not applicable.

Tourism Western Australia

(a) Yes.

(b) Bishop Media.

(c) $5 703.

Rottnest Island Authority

(a) No

(b)–(c) Not applicable.

Office of Road Safety

The Office of Road Safety is administratively supported as part of Main Roads WA and as such, the response will be included in the Main Roads response under the Minister for Transport.

Women's Interests

Women's Interests is administratively supported as part of the Department of Local Government and Communities and as such, the response will be included in the Department of Local Government and Communities' response under the Minister for Local Government; Community Services; Seniors and Volunteering; Youth.

GOVERNMENT DEPARTMENTS AND AGENCIES — MEDIA TRAINING

1771. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

I refer to the provision of media training for staff within agencies, departments and government trading enterprises (GTEs) within the Minister's portfolio of responsibilities, and ask, for the 2013 calendar year:

(a) was media training provided to staff by any paid, external service provider;

(b) if yes to (a), what was the name of the media training provider; and

(c) if yes to (a), what was the cost of each individual agency, department or GTE media training for the calendar year 2013?

Mr A.J. Simpson replied:

Metropolitan Cemetery Board

(a) No

(b)–(c) Not applicable.

Department of Local Government and Communities

(a) No

(b)–(c) Not applicable.

MINISTERS / MINISTERIAL OFFICES — MEDIA TRAINING

1781. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests:

I refer to the provision of media training for the Minister and/or Ministerial staff for the 2013 calendar year, and ask:

(a) did either the Minister and/or Ministerial staff receive media training by any paid, external service provider;

(b) if yes to (a), what was the name of the media training provider; and

(c) if yes to (a), what was the amount paid to each media training provider outlined at (b)?

Mrs L.M. Harvey replied:

(a) No

(b)–(c) Not applicable.

MINISTERS / MINISTERIAL OFFICES — MEDIA TRAINING

1786. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries:

I refer to the provision of media training for the Minister and/or Ministerial staff for the 2013 calendar year, and ask:

(a) did either the Minister and/or Ministerial staff receive media training by any paid, external service provider;

(b) if yes to (a), what was the name of the media training provider; and

(c) if yes to (a), what was the amount paid to each media training provider outlined at (b)?

Mr D.T. Redman replied:

Office of the Minister for Agriculture and Food; Fisheries:

(a) Yes.

(b) Marie Mills, Mills Wilson Communication Consultants.

(c) $924.00 including GST.

MINISTERS / MINISTERIAL OFFICES — MEDIA TRAINING

1788. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

I refer to the provision of media training for the Minister and/or Ministerial staff for the 2013 calendar year, and ask:

(a) did either the Minister and/or Ministerial staff receive media training by any paid, external service provider;

(b) if yes to (a), what was the name of the media training provider; and

(c) if yes to (a), what was the amount paid to each media training provider outlined at (b)?

Mr A.J. Simpson replied:

Honourable Tony Simpson MLA, Minister for Local Government; Community Services; Seniors and Volunteering; Youth

(a) Yes.

(b) Marie Mills, Mills Wilson Communication Consultants.

(c) $924 00 including GST.

Ministerial Staff

(a) No

(b)–(c) Not applicable.

MINISTERS / MINISTERIAL OFFICES — SERCO MEETINGS

1798. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests:

Has the Minister and/or any Ministerial staff member or placement met with representatives of Serco since 1 July 2013, and if so:

(a) on what date(s) did the meeting(s) take place;

(b) who attended the meeting(s);

(c) what was the purpose of the meeting(s);

(d) where did the meeting(s) take place; and

(e) what issues were discussed at each meeting?

Mrs L.M. Harvey replied:

(a)–(e) Not applicable.

MINISTERS / MINISTERIAL OFFICES — SERCO MEETINGS

1803. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries:

Has the Minister and/or any Ministerial staff member or placement met with representatives of Serco since 1 July 2013, and if so:

(a) on what date(s) did the meeting(s) take place;

(b) who attended the meeting(s);

(c) what was the purpose of the meeting(s);

(d) where did the meeting(s) take place; and

(e) what issues were discussed at each meeting?

Mr D.T. Redman replied:

(a)–(e) Not applicable.

MINISTERS / MINISTERIAL OFFICES — SERCO MEETINGS

1805. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth:

Has the Minister and/or any Ministerial staff member or placement met with representatives of Serco since 1 July 2013, and if so:

(a) on what date(s) did the meeting(s) take place;

(b) who attended the meeting(s);

(c) what was the purpose of the meeting(s);

(d) where did the meeting(s) take place; and

(e) what issues were discussed at each meeting?

Mr A.J. Simpson replied:

(a)–(e) Not applicable.

WESTERN AUSTRALIAN CRICKET ASSOCIATION — MINISTER'S MEETINGS

1842. Mr M. McGowan to the Minister for Tourism:

Since 1 July 2013, will the Minister advise if she, or any member of her Ministerial office, had any contact or meetings with representatives of the WACA board or senior management, if yes:

(a) what were the dates of the contact or meetings;

(b) what was the nature or subject of the contact or meetings; and

(c) who were present during the contact or meetings?

Mrs L.M. Harvey replied:

(a)–(e) Not applicable.

HILTON POLICE STATION — SALE

1886. Mr P.C. Tinley to the Minister for Police:

I refer to the sale of the former Hilton Police Station on Paget Street, Hilton and ask:

(a) has this property been sold by the Department, and if so, when was it sold and for what amount; and

(b) what were the proceeds of this sale used for?

Mrs L.M. Harvey replied:

(a) Yes. It was sold at auction on 19 November 2011 for $620 000 (including GST).

(b) Proceeds were allocated through the 2012–13 Budget process to the Police Facilities Major Refurbishment and Upgrade Program.

LOCAL GOVERNMENT BODIES — BIOSECURITY GROUPS

1914. Mr M.P. Murray to the Minister representing the Minister for Agriculture and Food:

I refer to the Western Australian Department of Agriculture and Food's (DAF) invitation to local governments to form Recognised Biosecurity Groups under the *Biosecurity and Agriculture Act 200*7, and ask:

(a) have amendments to the *Biosecurity and Agriculture Act 2007* been drafted to shift enforcement powers from DAFWA Biosecurity Officers to Local Government officers;

(b) if yes to (a), what is the name of the bill;

(c) if no to (a), what is the proposed time frame for the amendment to the act;

(d) has DAF prepared a monetary plan to reimburse local governments for work carried out by their officers in lieu of DAF employees; and

(e) will monetary compensation to Local Governments or Recognised Biosecurity Groups be paid on the number of enforcement notices issued?

Mr D.T. Redman replied:

(a) No. The *Biosecurity and Agricultural Management Act 2007* (BAM Act) makes provision for the authorisation of Inspectors from the Department of Agriculture and Food (DAFWA) and other organisations.

(b) Not applicable.

(c) There is no proposal to amend the BAM Act for the purpose stated in (a).

(d)–(e) No.

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