

## Legislative Assembly

Thursday, 1 September 2011

**THE SPEAKER (Mr G.A. Woodhams)** took the chair at 9.00 am, and read prayers.

### CONTAINER DEPOSIT SCHEME

#### *Petition*

**MR D.A. TEMPLEMAN (Mandurah)** [9.01 am]: I have a petition signed by 3 592 constituents and I confirm that it conforms to the standing orders of the Legislative Assembly. It is couched in the following terms —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, say

It is time to address the number of beverage containers recycled in Western Australia and assist in improving the ongoing litter problem we have in our state. Discussion about the introduction of such a scheme for Western Australia has been ongoing for too long and it is now time the Government took action.

Now we ask that the Legislative Assembly call upon the Barnett Government to immediately introduce a Western Australian Container Deposit Scheme, similar to the system that operates in South Australia.

[See petition 462.]

### MINISTER FOR TOURISM — VISIT TO CHINA

#### *Statement by Minister for Tourism*

**DR K.D. HAMES (Dawesville — Minister for Tourism)** [9.02 am]: I rise to inform the house that from 9 to 18 September I will travel to China and visit Chengdu, Beijing, Guangzhou, Hangzhou and Shanghai. A delegation will accompany me on the visit. The delegation will include the chair and chief executive officer of Tourism WA, Tourism WA staff, and approximately 24 Western Australian tourism operators, who will showcase what Western Australia has to offer to Chinese outbound tourism operators.

At the commencement of the trip in Chengdu, I will present awards to the 10 winners of the 2011 Picture Yourself in Perth Competition. Perth Education City, together with Chengdu Municipal Foreign Affairs Office and Chengdu Bureau of Education, organised the competition, which will see 10 Chengdu high school students win a 10-day English study tour program in Perth. The competition also received strong support from the City of Perth, Tourism WA and sponsoring Perth universities and colleges.

Also in Chengdu I will be signing two memoranda of understanding, the first between Chengdu Grand Golf Club and The Vines, and the second between Golf Tourism WA and the Sichuan provincial golf association.

One very exciting development for the trip is that I have been granted a meeting in Beijing with Ms Yang Lan, who members may know as being the equivalent of Oprah Winfrey in China, to discuss opportunities to promote Western Australia to her considerable Chinese audience.

In Beijing, Guangzhou, Hangzhou and Shanghai, a series of workshops will be held between members of the delegation and Chinese tourism operators. These meetings will be an opportunity to provide information to Chinese outbound travel agents about Western Australia and tourism experiences on offer, and to facilitate direct relationships between WA tourism operators and Chinese outbound travel agents. It is expected the visit will result in business relationships being developed and, ultimately, commercial agreements being made.

Since Tourism WA signed the memorandum of understanding with China Southern Airlines earlier this year, it has worked closely with the airline and Tourism Australia to develop and implement a \$2.5 million marketing campaign to promote the flights to Perth. That marketing campaign commences this month. The inaugural China Southern Airlines flight will land in Perth on 9 November, and a range of welcoming functions and media opportunities are being planned for the arrival of this flight. I look forward to further discussing these arrangements with senior officials of China Southern Airlines during my visit. As a result of my visit I hope we will be able to welcome many new Chinese visitors to Perth to “Experience Extraordinary Western Australia”.

### VIENNA PHILHARMONIC ORCHESTRA PERFORMANCE — REGIONAL BROADCAST

#### *Statement by Minister for Culture and the Arts*

**MR J.H.D. DAY (Kalamunda — Minister for Culture and the Arts)** [9.05 am]: The state government is pleased to support the tour to Australia by the Vienna Philharmonic Orchestra this month. Under the baton of their renowned and celebrated conductor Christoph Eschenbach, the orchestra will perform Schubert’s B minor

symphony, the *Unfinished Symphony*; Mahler's *Des Knaben Wunderhorn*, featuring baritone Matthias Goerne; and Beethoven's Symphony No 8.

I am pleased to inform the house that in conjunction with the Perth Concert Hall, Perth Theatre Trust and the royalties for regions program, the second performance of the orchestra will be simulcast via the Westlink satellite network to 12 venues across the state in Albany, Broome, Bunbury, Carnarvon, Esperance, Exmouth, Geraldton, Kalgoorlie, Margaret River, Merredin, Moora and Port Hedland. The simulcast will use high-quality video and audio technology to allow residents in regional Western Australia to experience this world-class performance—an opportunity most would not otherwise have. The broadcast will be run in real time so that patrons viewing the performance in the regions can enjoy the full concert experience, including the arrival of the orchestra on stage. Tickets will be free and the audience will be able to purchase programs, food and beverages at their venue. Westlink subscribers with access to satellite decoding equipment will be able to enjoy the concert from the privacy of their own home.

This visit of the Vienna Philharmonic Orchestra is part of the World Orchestra Series. The series commenced in 2009 with the London Philharmonic Orchestra touring Australia and appearing at the Perth Concert Hall, the Queensland Performing Arts Centre and Sydney Opera House. It continued in 2010 with the Berlin Philharmonic Orchestra appearing at the Perth Concert Hall and Sydney Opera House. One Perth performance of the Berlin Philharmonic Orchestra was successfully simulcast to eight regional centres and gave more than 3 000 people access to the extraordinary performance.

The concept of offering a regional simulcast has captured the imagination of the nation, with Queensland also taking the opportunity to broadcast a performance of the Vienna Philharmonic Orchestra to their regional citizens. The success of this project will demonstrate a regional delivery format that may be replicated for other performances in the future. There will be significant benefits for communities in creating this opportunity for ongoing regional access to cultural and social experiences. Tickets for both Perth performances are now available through BOCS Ticketing. The regional simulcast is a free event, but people wishing to attend will need to book tickets from the relevant venue's ticketing agency prior to the date of the performance.

#### **LOCAL GOVERNMENT ACT — NONCOMPLYING RATES**

*Statement by Minister for Local Government*

**MR G.M. CASTRILLI (Bunbury — Minister for Local Government)** [9.08 am]: I bring to the attention of members that I have received advice from my Department of Local Government that of the 79 annual budgets for 2011–12 submitted to the department so far, 16 local governments have been assessed as noncomplying with sections of the Local Government Act relating to the process of imposing rates. These matters relate specifically to the imposition of minimum rates, differential rates and the introduction of a levy without a head of power to do so. Two of these matters can be addressed under Governor's orders. However, the remainder have been referred to the State Solicitor's Office for legal advice. One outcome may be a determination that the rates levied under these categories are invalid, and those local governments will need to take action to withdraw and reconsider them. Each of these local governments has been advised of these matters and has been requested to seek Governor's orders or to address the matter in other ways. The 16 local governments range from rural shires to metropolitan and regional cities. The financial impact has not been calculated by my department; however, that is a matter for each of these local governments to consider. Clearly, if the adjusted rate levy fails to deliver the rate revenue required to balance budgets, these local governments will need to consider other options.

I am pleased the department has staffing resources with the knowledge and experience to assess such matters and bring them to my attention and the attention of noncomplying local governments in a timely manner. It is my intention to pursue the acquisition of an appropriate management information system for the department to assist with broader assessment of local government performance. This will highlight not only noncompliance to the sector and electors to assist with earlier rectification, but also examples of best practice for others to emulate. Fifty-nine additional budgets are still to be assessed.

#### **COTTESLOE EARLY INTERVENTION CENTRE**

*Grievance*

**MR P. PAPALIA (Warnbro)** [9.11 am]: I grieve to the Minister for Education this morning on behalf of my constituent, Steph Carbone. I say, at the outset, that Steph, in my view, represents a living state treasure. She and her husband, Joe, have fostered over 360 children, and 40 of the most recent have been high-needs children. When Steph comes to me, and to this place, with an issue about disabled children, we should, in her case, listen.

I also fear that this grievance represents or highlights what may be a very sad and potentially very damaging pattern of behaviour by this government in the way it treats, in particular, disabled children. Recently, we had the embarrassment of the Carson Street affair in which the department, under this minister's leadership, announced it would cut funding to Carson Street School. Only after it was shamed by the opposition into a backflip, did that position change.

**Dr E. Constable** interjected.

**Mr P. PAPALIA:** A decision was made, announced and then rescinded after some public pressure. We subsequently had the Premier tell the disabled people, their carers and loved ones, of this state that they are well off; they should be happy with their situation; they should go away and not support the national disability insurance scheme. Subsequently, after a bit of public pressure, we see the Premier backing away from that statement. Now, sadly, I fear that we are bringing to this place, a third incidence of this minister and her department making an announcement, making a decision and then subsequently deciding to consult with the people who are most impacted upon by that very poor and short-sighted decision.

I will outline what has occurred. On 26 May, the minister released a press release entitled “Statewide Education Services to deliver improved support for schools”. There is no mention in that release that the Western Australian Institute for Deaf Education early intervention centre was to close and be shifted. Nothing in that release states that; that line does not appear. Buried within the release is the line “including deaf and hard of hearing; speech and language development” in the paragraph that refers to the types of services and experts that will be shifted to and co-located at Padbury. I understand the justification that the Department of Education will be providing the minister; namely, that services will be co-located, therefore making administration a lot easier. Having everyone in the one place makes it easier for the bureaucrats. I can understand the minister accepting that, signing off on it and issuing this press release. However, I am concerned because the minister has not talked to the people who will be most impacted upon by that decision.

The next piece of evidence I have is contained in an email sent to the Premier by Steph Carbone on 24 June. According to my notes, Steph writes —

Hi, Mr Barnett

Could you tell me why you are moving WAIDE, the WA Institute for Deaf Education?

In her email, she suggests that she has not been officially contacted by the department, that she has not been officially contacted by the minister, and that she has not been contacted by anyone to tell her that the early intervention centre at Cottesloe is closing and will be shifted to Padbury, which is a very, very long way north of its current location. Steph inadvertently found out about this announcement during discussions with someone in the department, who has provided support to her in her home, while enthusing about the benefits to be had from early intervention at the early intervention centre as a result of experiencing those benefits for her foster son Elia, who, now aged 12, has Down syndrome and is also deaf. She took Elia to the early intervention centre and saw a profound and positive impact as a result of that early intervention. Steph was enthusing to the person from the department about how she intended at the very earliest possible opportunity to take her daughter, Destiny—who is deaf and blind and also challenged with a mental disability—to the centre. Steph said that she was looking forward to getting her daughter to the early intervention centre to get her the early intervention that would have positive benefits. However, she was told by the person from the department, “I have been told that we are not to tell you about this, Steph, but I am sorry, the early intervention centre is shutting down and is going up to Padbury.” That is how Steph heard about it. That is unacceptable.

In response to her email to the Premier, Steph then received a letter from the minister in which, according to my notes, the minister stated, in the second paragraph—

As you are aware, the Department of Education has announced the intention to relocate a number of specialist services.

The minister is assuming that Steph knows about the decision, but she knows only because she found out inadvertently when a good Samaritan, who was told not to tell her, told her!

Later in that letter, the minister goes on to state —

I am advised that in the near future a senior officer from the Department of Education will meet with families from the WA Institute of Deaf Education and the Early Intervention Centre, to consider the impact that the move may have on individual families, and to ensure a quality support service continues to be provided.

The minister makes the decision, makes the announcement, and then goes and finds out what the impact will be! Does the minister not think that is slightly out of kilter? Does she not think that the better or preferred course of action might be to talk to people before a decision is made?

When Steph approached me, she told me there are no other services down her way. Steph lives in Karnup. In the morning, including a trip to preschool, it already takes her about an hour to get to Princess Margaret Hospital for Children. I think she leaves home about 90 minutes before her appointment time at PMH. If the service is moved to Padbury, that will add between 45 minutes and one hour to her journey. She will just not be able to do it. Her child, Destiny, and the 30 other kids at the centre who live south of the river will be deprived of the services they require. I want the minister to answer: what has she done to consult with people; when did she do it; and what

services will the department provide in the southern suburbs for the people who are going to be deprived of this much-needed service the moment it is shifted to Padbury because the bureaucrats have told the minister to do it?

**DR E. CONSTABLE (Churchlands — Minister for Education)** [9.17 am]: I start by reassuring the member for Warnbro that there will be very good services for people living in the south metropolitan area.

**Mr P. Papalia:** Early intervention centres?

**Dr E. CONSTABLE:** Let me just go through it, so that the member will know about it in detail.

I have been to the centre at Cottesloe twice since I have been the minister. The reason for that is that the people working there feel the facilities are not adequate for what they need to do. In fact, the early intervention centre is located at, I understand, the former Mosman Park School for the Deaf and was not purpose-built. At Padbury, we will have purpose-built facilities. It is very important that we have that. I recognise, and the government recognises, the great importance of early diagnosis and early intervention, and working with parents and their infants and children when they have a disability such as hearing loss, or if they are deaf. The early intervention program, in fact, goes back a long way, to 1975. It started in Johnson Street in Cottesloe before moving to its present location. It was originally called the Parent Infant Centre, which suggests how important it is that we work with infants and parents together, because parents need to learn a lot of skills.

The reason for moving the centre to the Padbury site is so that we can have a purpose-built facility. I recognise, as does the member for Warnbro, that Perth has grown a great deal over the past 20 or 25 years.

**Mr P. Papalia:** But you can't use it if you live in Karnup!

**Dr E. CONSTABLE:** Hang on! Just a moment; let me finish and you will have the answer that I think you are looking for.

I recognise the very points that the member made about travel and so on. However, a purpose-built centre is needed to bring together a whole lot of services—diagnostic services, services for parents to learn how to manage a child with a cochlear implant or hearings aids and a whole range of things. It is really important to note that the staff at the WA Institute for Deaf Education in Cottesloe have been isolated from their colleagues who specialise in the areas that the member mentioned—intellectual disability, visual disability and so on. So they will all be working together, and they need that cross-referencing and working together. At the same time, I recognise exactly what the member has said, and this has been put in place. It must be borne in mind that Padbury will not be ready until the end of next year. It will be almost 18 months before it will be ready. There is plenty of time to negotiate and talk to parents about their needs—those parents who will find that centre very difficult to access because of its locality.

**Mr P. Papalia:** So you are confirming that you didn't talk to the parents before making the decision.

**Dr E. CONSTABLE:** I am confirming that some discussions have already happened with parents in the last few weeks—I have been told that by the department—and that there will be facilities —

**Mr P. Papalia:** What sort of discussions?

**Dr E. CONSTABLE:** I was not at the discussions. That is something that happens between the staff at the Department of Education and the parents, but some discussions have occurred. Let me just finish. There will be a location for parents from south of the river so that they will still be able to access the early intervention services and will not have to travel to Padbury. In fact, we will end up with more than we have now. We will end up with the Padbury service and we will end up with an early intervention service for people who live south of the river, recognising that people are spread right across the state.

**Mr P. Papalia:** Where will it be?

**Dr E. CONSTABLE:** We provide individual services to people living in country areas.

**Mr P. Papalia:** Where will the centre south of the river be?

**Dr E. CONSTABLE:** We are looking at that. It might be close to the current one; it might be in Cottesloe. It could be in Fremantle.

**Dr A.D. Buti:** Cottesloe?

**Dr E. CONSTABLE:** It is in Cottesloe now.

**Mr P. Papalia:** I know. Why are you shifting it?

**Dr E. CONSTABLE:** It is because we want an integrated service. The facilities currently at the WAIDE centre are not adequate for what we need. They are not purpose-built for children who are deaf.

**Mr P. Papalia:** They will be inadequate if no-one uses them because they are too far away.

**Dr E. CONSTABLE:** The member must recognise that people not only south of the river, but also north of the river have children who are deaf. There will be two —

**Mr P. Papalia:** There are 60 kids at the centre and 30 of them live south of the river.

**Dr E. CONSTABLE:** Yes. The member is not listening. He does not want to listen. He does not want to hear what I am saying. There will not be just one centre in Padbury.

**Mr P. Papalia:** Where is the other centre going to be?

**Dr E. CONSTABLE:** That is still to be determined. There are 18 months to go, and that will be determined in consultation —

**Mr P. Papalia:** When are you going to talk to the parents of children south of the river about this issue?

**Dr E. CONSTABLE:** I have been informed that meetings with parents at the centre have already been held during August.

**Mr P. Papalia:** When?

**Dr E. CONSTABLE:** During August there have been some meetings.

**Mr D.A. Templeman:** You should go and meet them.

**Mr P. Papalia:** You should; you should go and meet these people and ask them —

**Dr E. CONSTABLE:** I have been to WAIDE twice. I have met with parents at WAIDE already.

**Mr P. Papalia:** You should talk to people who are being deprived of this service.

**The SPEAKER:** Member for Warnbro, you are asking questions.

**Mr P. Papalia:** I am asking questions, but I want to get an answer rather than just fluff about how good the services are. I want to get an answer about —

**Dr E. CONSTABLE:** Member for Warnbro —

**The SPEAKER:** Member for Warnbro, you have asked some questions—I recognise that—and I think you are expecting some answers. If you continue to interject, the time will elapse and you will not get your answers. That is all I am suggesting to you.

**Mr P. Papalia:** Thank you.

**Dr E. CONSTABLE:** All I can say to the member for Warnbro is that if he stops interrupting, he will learn something. All he is doing is asking the same question.

**Mr P. Papalia:** I asked you a question in the upper house on Tuesday, so you knew this was coming. Why don't you know when the consultation was done and what consultation was undertaken?

**Dr E. CONSTABLE:** I have just told you that meetings were held in August.

**Mr P. Papalia:** You said before that you thought there might have been a meeting.

**Dr E. CONSTABLE:** No, I said that meetings were held in August.

**Mr P. Papalia:** With every single one of the parents who is going to be impacted upon?

**Dr E. CONSTABLE:** I do not know who attended, but meetings were called in August to discuss this with the parents. There are 16 months in which to consult parents.

**Mr P. Papalia:** Will you undertake now —

**Dr E. CONSTABLE:** Just stop interrupting and I will —

**Mr P. Papalia:** No, because there's one minute and —

**Dr E. CONSTABLE:** No; stop interrupting.

**Dr K.D. Hames:** Why don't you just settle down and finish the grievance, because that's not how grievances work.

**Mr P. Papalia:** I want to get a commitment from her that she is actually going to have a centre in the south of the river.

**The SPEAKER:** Members!

**Mr P. Papalia:** I want to get a commitment that she is going to provide a centre in the south of the river for the people who will be impacted.

**The SPEAKER:** Member for Warnbro, I do not want to formally call you during your grievance, and I am not going to do that. I think the best course of action would be to listen to what the minister has to say. If you are not convinced that you have the information you are seeking, might I suggest that you speak to the minister after this process. The process is for you to get information back, and continual interjecting is not going to enable that to happen.

**Dr E. CONSTABLE:** Member for Warnbro, there will be more services for people with young children who are deaf. We will have an integrated centre in Padbury, and there will be an early intervention service, very similar to what there is now, for people living south of the river so that it is easy for them to access it. We are increasing our offerings to people, not decreasing them. I can assure the member that there is plenty of time to select an ideal location for people living south of the river. But let me tell the member that people all over the state have deaf children, and we go out and visit and work one to one with those people. We are not going to diminish the services to people with deaf children. That will not happen.

### EARLY CHILDHOOD ASSESSMENT AND INTERVENTIONS

#### *Grievance*

**DR J.M. WOOLLARD (Alfred Cove)** [9.25 am]: My grievance is to the Minister for Health and it is on making early childhood assessment and interventions evidence-based. Since 2008 we have had statistics showing that Western Australia has a lack of nursing staff in child health, community health and school health. These are the nurses who practise as community public health nurses and who, often as part of a team approach, identify vulnerable children and families in need of assistance. We need to ensure that every child in WA has every chance to succeed in childhood, in youth and later in life. WA urgently needs a plan to ensure that families and children have access to the right mix of services and to ensure that enough community public health nurses are employed to conduct assessments; to identify and give assistance to ensure children interact with other children and adults; to participate in individual treatment and programs that will foster their development; and to enable them to develop to the best of their ability.

A child's brain development is influenced by their interactions, their feelings and behaviour, and their learned problem-solving techniques. As the minister knows, the brain is a collection of billions of neurons—cell bodies with branches coming in and out—that make connections with each other and form circuits. The brain is built over time and the density of connections increases after birth, and is sculpted and shaped by interactions and experience. The creation of these circuits results in how children learn and behave. Early childhood interactions affect the architecture of the brain and whether it develops with a sturdy or a fragile foundation, and this foundation affects lifelong learning, behaviour and, to some extent, health.

I will hold up for the benefit of members this diagram that was given in a presentation by Dr Jack Shonkoff, who is an expert in child health and development. Members can see from this diagram that neural circuits in the brain that process basic information are wired earlier than those circuits that process more complex information. Higher circuits build on lower circuits. Skills are built in a sequence, and simple skills must be learnt before complex skills. We now know that if the brain gets the earlier circuits right, the later circuits build more efficiently for what they need to do. We know that early experience prepares the brain to take on the things it needs to do and that a child's brain circuits are influenced by children's interactions and experience. Therefore, it is important for child health nurses, community health nurses and school health nurses to identify and act if early skills are not developing, as the development of the brain's higher level capabilities are more difficult if the lower level brain circuits have not been developed.

During a child's education, if something has not developed correctly, the brain will do everything it can to get back on track, but that is if opportunities are provided. If the opportunities are not provided, problems arise. We also know that when a child's brain is young and immature, it is flexible and adaptable, but this decreases again as the brain circuits stabilise. We all know that it is harder to change behaviours and learn new things when people are older. That is why we need to put money into early childhood now.

Community public health nurses consider and use what we have learnt from developmental psychology to assist children and families in need. Social competence and social skills, along with emotional health and wellbeing, are important prerequisites for success in school and in life. The economics of human capital formation supports increased funding for early childhood development and community public health nurses. James Heckman, an economist who won a Nobel prize, said that non-cognitive skills were the major predictors of skills later on in life in the workplace. We know there is an opportunity to invest in good early childhood learning environments for children, and that the Premier, along with the Minister for Health, the Minister for Education and the Minister for Community Services, is actively looking into this area, but we should not put all our eggs into one basket. The environment is very important. In addition, we need public community health nurses who will help identify and work with those children and families in need. It is more efficient to get things right the first time than to try to fix them later. That is why it is important that children are seen by community public health nurses sooner rather than later and why it is important that they assess children and ensure that children are reaching their developmental milestones. As children grow into adults, the cost of remediation, education and behaviour change increases.

I was going to talk a little about the Perry project, which showed that early investment in preschool over two years produced cost effective results of \$17 for every \$1 spent and showed that the children who had received that additional help were better able to earn higher salaries, needed less public assistance and experienced less

incarceration, but time is running short. I would like to say the community public health nurses who work with allied health professionals and educational staff can make a difference—if the minister supports them. They can make sure that children are living in stable, supportive, nurturing relationships, which we know sculptures the brain's architecture and influences how those children develop initially and then influences their development throughout their life.

**DR K.D. HAMES (Dawesville — Minister for Health)** [9.32 am]: The member for Alfred Cove will know that I have had quite a bit of involvement with this sort of issue over the years. Before the member for Bassendean leaves, I was going to mention him. My involvement was, firstly, as a general practitioner, when I obviously saw patients like that. In fact, patients who have access to child health services do not always go to the child health clinics, even when they are available. I know many parents who prefer to visit a doctor, rather than go to those child health clinics. Secondly, the member will be aware that when we were in opposition I was deputy chair of the Education and Health Standing Committee—the committee the member now chairs—and at the instigation of the member for Bassendean, our committee initiated this particular study into child health that the member for Alfred Cove's committee has undertaken. If I may say so, at the time it was a courageous decision because the member for Bassendean's party was in government and there was no suggestion that we might win the election to follow and there was every chance that what is being said now would reflect poorly on the government that would have been in place at the time—the Labor Party.

I specifically remember the member for Bassendean bringing this issue forward—it being his turn to nominate an issue, because we had been dealing largely with Aboriginal issues. It was the member's view that this would be a significant problem for the future, and for good reason too because the statistics show a huge increase in the number of children being born in this state. In fact, in the six years between 2003 and 2009 there was an annual increase of 22 per cent in the number of child births, going from 24 493 to 29 854 children born in a year in that time. There was a huge increase in demand for services as those children were coming through. The member will be aware that waiting times for some specific requirements, such as speech pathologists, occupational therapists, physiotherapists and the like, actually got worse in the early term of our government because there had been no investment in that space for very many years. I do not just blame the previous Labor government for this; it had carried on from our government previously. There was not a great focus on this as an area of demand within the health system. This government has managed to invest \$50 million over four years to cover those urgent aspects where we found something wrong that needed treatment. As the member for Alfred Cove stated, it is absolutely critical to get early treatment in areas like speech pathology because those things are easily resolved; and if we resolve them quickly, the stigma of having a speech defect does not exist any more, because it can be cured at a very early age and thus avoid those problems that children face when they get to preschool and school. We have done that, and since that time waiting times have reduced by 50 per cent and continue to fall as we have put in 44 extra staff in the metropolitan area and an extra 10 staff within the Country Health Service to address those critical issues.

The member for Alfred Cove needs to realise too that while we have not yet done all of those things that need to be done, it is not as though we have been sitting on our hands. There was an increase of seven per cent in last year's budget in those and other aspects of community and children's services. The growth factor is nowhere near as much as we need, but still it is a seven per cent growth in our budget and a real increase of two per cent, which equates to an extra million dollars going into child health services in those areas. Some of it is for specific problems, and part of it will cover the mandatory reporting of child sexual abuse and also the anaphylaxis program that this government put in place. Under its Indigenous early childhood development program, which is a critical area about which the member has spoken, the government allocated \$11.25 million in new money over four years to improve access for Aboriginal families to community, maternal and child health services. These are exactly the services that the member is talking about. That is an extra \$11 million by this government to address that issue, recognising that Indigenous families are at a particular disadvantage. Because of the early death rates among Aboriginal people, often those little Aboriginal kids have grandparents who have passed away and significant social problems within their family, so they do not get those early development opportunities like parents reading to them, learning colours and those different things and when they get to preschool they are behind the eight ball before they start. Those programs are designed to assist them. We have an additional 6.7 child health nurse FTEs statewide to deliver those services, the adolescent young mothers support program at King Edward Memorial Hospital for Women and funding for the Derby Aboriginal Health Service and the Hills Community Support Group Inc. The government is funding those programs. However, I recognise there is still a significant shortfall in funding for child health services and school nurses and I agree with the committee report and the member for Alfred Cove that this is an extremely important issue. The member has heard me say in this place before that it is my commitment to try to address that during this term of government. We have one budget left and one and a bit years left in order to do that. I do not know personally if I am able to get the money. The Treasurer is sitting behind me listening to this debate and he knows that I am always asking for money for something in health, and I have generally been reasonably successful in doing that. The Premier, too, has recognised the critical need, and I am working together with the Minister for Education and the Minister for

Community Services to look at a package of changes that address this critical need in our state so that we can go out through schools, child health clinics, and school nurses and community nurses to make sure that these children in Western Australia are getting the best they can, recognising that already, at that first check-up, 99 per cent of newborns are assessed by the health system and that at school entry 84 per cent are assessed. It is not as though we are failing these children; they are getting assessed, but they need to get assessed more often, more thoroughly and have the services available to treat them once they have been seen.

**LEANNE MARIE WEBBER — EX GRATIA PAYMENT**

*Grievance*

**MR M.P. WHITELEY (Bassendean)** [9.39 am]: My grievance is to the Attorney General. It relates to an issue that I have raised with him in two previous letters; that is, a case for the substantial ex gratia payment to Leanne Marie Webber. Leanne lives in Busselton and cannot be here today, but her mother, who is a constituent of mine, Esme Nillson, is here. A brief history of this issue is that in 1965, when Leanne was just seven years of age, she was involved in a motor vehicle accident and suffered severe head injuries. In 1976, when she turned 18, she received \$895 in full settlement of the resulting claim. That is the equivalent of about \$5 000 in 2011 money. I just want to highlight today how unfair and equitable that result was.

I have been advised by Leanne, her mother Esme, and also by her lawyer Chris Phillips about the details of the process. If I go through them briefly, it will be clear just how unfair it was. They advised me that her father made the agreement that was ratified by the court in 1970, which was five years after the initial accident but, importantly, before the full damage of the accident became known. The accident occurred in 1965. The settlement was consented to by the judge in the relevant court in 1970 and the payment was made in 1976. It appears that the only person who was privy to the details of the settlement was the father, but even that is questionable, because the father was actually a native-born Swede and spoke English as a second language. To this day he does not remember signing the agreement. There is a real issue about whether he was actually capable of understanding the agreement that his signature apparently, according to the courts, appears upon.

**Mr C.C. Porter:** Member, where did the information you are giving now come from?

**Mr M.P. WHITELEY:** It comes from the lawyer, Chris Phillips, and the family.

**Mr C.C. Porter:** But he must have got it from someone.

**Mr M.P. WHITELEY:** I can put the Attorney General in contact with those people directly. It is also worth bearing in mind that Esme and Leanne's father separated in 1969, so it is quite reasonable to expect that if he was acting alone, Esme was completely and utterly unaware of it. It is also my understanding that the \$895 covered medical expenses only. There was nothing for ongoing problems. When we look at the quantum involved, that sounds entirely plausible. What became obvious much later than 1970, when Leanne was only 13, was the severe brain damage she suffered.

I have been advised—it is obviously readily verifiable and is my understanding that it is not in dispute—that Leanne suffered the loss of one-third of the right frontal lobe of her brain. The damage is not necessarily obvious when you talk to Leanne, and I have spoken to her. She is obviously an intelligent person. What was affected is her capacity to organise things, her capacity to make decisions and her capacity to stay in relationships. Over her lifetime she has suffered seizures, and I believe those seizures are increasing. There is also some damage to her eye that she believes is related to the accident.

Leanne has raised three children. It has been an incredible struggle. She describes her home life as chaos. Esme advises me that she has taken a lot of responsibility for supporting Leanne in her home, including going around every week to clean up. Now, because of her isolation from Leanne and her advancing years, Esme is unable to fulfil that role. In Leanne's own words, and she is an impressive person to speak to, she really knows what she wants to do, but she just does not have the mental capacity to organise her daily life.

The Attorney General is, I believe, fully aware of the legal history of the case. There was a court case in 2009 that hinged around the existence of a compensation agreement. It was set down as a 30-day trial and it was not until the eleventh day of the trial that the plaintiff's lawyers became aware of the compensation agreement; the court actually produced it. Until that stage they had been advised that no such agreement existed. Effectively, they had prepared the trial for one set of circumstances, which evaporated midway through the trial through no fault of their own. After that, Chris Phillips, the lawyer, made a plea to the Attorney General on behalf of Leanne for an ex gratia payment. The Attorney General's refusal to grant that hinged, as I understand, on whether the court erred in 1970 in approving the settlement. When I wrote to the Attorney General in 2010, he responded —

... as a matter of law once a matter is compromised it cannot be raised again between the parties. This legal principle is necessary to bring finality and certainty to judgments in legal proceedings.

I do not want to enter into a dry legal argument with the Attorney General because, frankly, that is what he excels at. I am not questioning the principle at law here. The Attorney General's view of protecting the court's

integrity is something that needs to be considered, but I am not asking the Attorney General to revisit the issue about whether the court's actions are defensible at law, because I concede that, but rather whether Leanne Webber received fair compensation for her original injury. Is the \$895 settlement in 1976, or \$5 000 today, fair compensation when that simply covered her initial medical costs? Is it fair compensation for a lifetime spent without one-third of the right frontal lobe of her brain? She has not received a cent in compensation for a lifetime of disability. No-one in this place would doubt the Attorney General's ability to dispassionately apply the law and defend or prosecute a case. However, what is required here is something that the Attorney General needs to display. He is someone who obviously has ambitions for even higher office, but I think the missing ingredient so far is empathy.

I am expecting the Attorney General to come back with a dry legal argument as to all the reasons why we cannot revisit the issue, but I would encourage him even if he just wanted to say, "I'm going to take time to consider the issues. I'm going to have a look at whether it was a fair outcome. I'm going to talk to the family and consider the full circumstances and see if the right thing was done in 1976 and see if we can't actually revisit the issue and come up with a just solution rather than a legally defensible solution."

**MR C.C. PORTER (Bateman — Attorney General)** [9.46 am]: I am not going to go into all the history of this matter in detail. The member for Bassendean is aware of a version of it that he has received. I have received a similar version from going through all of the facts of the matter. I will not go into the law in any great detail other than to make some very general comments. The reason that I declined to grant a state payment of \$1.9 million to the person the member is advocating on the part of was not through lack of empathy. I think that her story is an incredibly sad one, but in this job I owe an obligation not just to individuals who have suffered misfortune in their life but to the 2.1-odd million individuals who pay taxes and who want their money used wisely and fairly. It is a very difficult thing for me personally, I must say, to see very sad stories like this and be presented with all of the correct principles. The advice that I received about the inappropriateness of handing over \$1.9 million in these circumstances was very strong advice indeed, and to simply ignore that advice because in my heart and soul I feel an enormous amount of sympathy for this individual person is a very difficult thing for any individual to have to do, but that is the task that I have been given.

The outcome for this individual has not been what I would describe as fair. Cutting through all the fat of the facts and complicated law, the question that arises is: who is truly responsible for that unfair outcome? One proposition that has been put through the lawyers to me is that the court system of WA is responsible for that unfair outcome because it, in effect, failed to uncover after a number of requests the evidence, of which there was some, of the original agreement to settle the matter, which occurred in what was then the Third Party Claims Tribunal. I have received some very long and lengthy advice as to whether or not the court owed a duty of care in those circumstances to find that information; whether or not the court and courts were negligent in not uncovering that information; whether or not that negligence resulted in a loss to the plaintiff; and whether or not that loss could be considered to be in the vicinity of \$1.9 million. I know that the member is looking for a way to assist this person, and I think that is a worthy and noble pursuit. However, I must ask myself this simple question: what was the real source of the suffering and unfairness that has been occasioned to the plaintiff in this matter? I would say, looking at all the information that has been presented to me, that the original source of that must surely have been the advice that this person was getting when the matter was originally settled for \$800-odd, given that it appears that the accident caused some very significant injuries to the frontal lobe of the plaintiff in question. I think that where the negligence in this matter arises was at the point where the plaintiff was getting medical advice about her medical condition at the time that she settled the original claim, and was clearly getting legal advice as well from solicitors at the time as to what she should do, what advice she should seek, what course she should take—all of this through her next friend, who was her father at the time. If I look at this dispassionately and legally to try to find the cause of the negligence and the cause of the unfair outcome, that seems to me to be, unarguably, the central cause of the problem. It seems to me that if further moneys are sought by the plaintiff in this matter, the state is not the source, necessarily, of those moneys, but that some kind of action against the doctors who failed to appropriately give advice about the medical condition in the first instance is where the negligence arises.

**Mr M.P. Whitely:** It is 46 years ago; who is there to go to?

**Mr C.C. PORTER:** I do not know the answer to that question, member.

**Mr M.P. Whitely:** I'd suggest, nobody.

**Mr C.C. PORTER:** I do not know the answer to that question; I do not even know whether or not that question has been asked. That might be something that the member can speak with plaintiff's solicitors about to try to find out whether any effort has been made to look into that course and that path. I put to the member respectfully, with all the empathy in the world, that it is not the state's job to compensate each and every person who has been the victim of negligence from a private source. The state could not possibly do that without going bankrupt. I am saying that I am willing to have another look at this, but I would like to know whether there have been any

efforts on the part of the plaintiff and her solicitors to look at avenues of actions for negligence with quantum of damages against the people who are really responsible for the suffering that has given rise to now.

**Mr M.P. Whitely:** Let's assume there is no-one to go back and sue, basically, which is highly likely after 46 years.

**Mr C.C. PORTER:** I do not know. We are obviously not going to sort this out in the eight minutes allotted to us, but for me to revisit this issue—I must say that it is a very difficult issue to deal with because of overarching responsibility to the taxpayer of Western Australia to not try to make up for any sort of loss at the hands of someone privately who has acted negligently—one thing I would like to know is whether there have been efforts to go down that path, or whether they could be made. It may be that the reason the plaintiff in this matter and her solicitor are coming to the state for an ex gratia payment is because they have looked at that, and it is possible that the doctor has since passed on and that the lawyer is no longer in practice or retired.

**Mr M.P. Whitely:** It's very likely.

**Mr C.C. PORTER:** It may be likely, but I would like to know whether such matters have been pursued. The fact is that for purposes of empathy and to right an unfairness that has been done to someone, this person is seeking a very large payment of taxpayers' money, and arguing that that should be paid across not only because the situation she finds herself in is unfair, because it certainly is, but also because the state is somehow responsible for that outcome. I cannot accept, based on all the advice that has been given to me, that we are responsible in a fulsome sense for a \$1.9 million payment of damages. I would like to know that, and we can perhaps discuss this later.

### MANNING ROAD FREEWAY ON-RAMP

#### *Grievance*

**MR J.E. McGRATH (South Perth — Parliamentary Secretary)** [9.53 am]: My grievance is to the Minister for Transport. This is a grievance that I have made on many occasions in this house, and I guess what I am doing today is making an upgrade to a grievance that I have referred to before.

The grievance is to do with transport in my electorate of South Perth. One of the main issues that has confronted me since being elected in 2005 is the need for an on-ramp onto the freeway south at Manning Road, which is fast becoming a major arterial road in the southern suburbs. If people travel down Manning Road, as I have mentioned many times in this house, when they get to the Kwinana Freeway and want to head south, possibly to the new Fiona Stanley Hospital when that is completed—it is going to be a major hospital in the southern corridor—they cannot do that; they have to go back up to Canning Bridge, navigate through two sets of lights, do a complete U-turn, and then come back down onto the freeway. It is crazy planning, and it has been like that for a long time. I do not think it was thought through properly when the engineers of those days extended the freeway further south from Canning Bridge.

The other issue that has been raised since then refers to Canning Bridge itself. What we have at Canning Bridge is a mild form of chaos at times, caused partly by the huge popularity of Canning Bridge station. When the Perth–Mandurah railway line was first constructed, Canning Bridge station was really regarded as, not an add-on, but not seen to be a major station. There was no parking for the station, so really it was going to be a Kiss 'n' Ride station, or people would have to walk to that station. I believe the early planning for the station forecast that 1 000 passengers a day would use that station. I am not sure—maybe the minister can update me on those figures now—but I think the figure is closer to 3 000 a day, mainly driven by students travelling to Curtin University. The only form of public transport to get from the train station to Curtin University is the bus. There has been talk of maybe having a light rail in the future, but that could be a long way off, and a lot of buses ferry these students from the bridge out to Curtin University. At present they are forced to pull in on the bridge on the highway itself. We know that it is already a busy road because people are heading across the Canning Bridge heading north, or people are heading east or west, down towards Applecross and Fremantle; it is a busy arterial road. The situation is that buses pull in, they have to do a U-turn, and they then have to head back out to Curtin University.

Recently, I was very pleased, after having last raised this with the Minister for Transport, when he informed the house that he would be allocating some funding out of the Department of Transport's budget for some forward planning for both of these projects. Therefore, in one of my most recent and very colourful newsletters for the electorate of South Perth, I am shown on the front page with the Premier —

**Dr A.D. Buti:** Were you wearing the same tie?

**Mr J.E. McGRATH:** — in a nice pink shirt—I did not have my black shirt and gold tie on, on that day!

We were down at the Million Paws walk on the South Perth foreshore —

**Mr T.R. Buswell:** Were you on all fours?

**Mr J.E. McGRATH:** I was not on all fours; I was very upright on that occasion! We were there with the president of the RSPCA, Lynne Bradshaw.

But on the same front page of that newsletter was a small item. I do not know who wrote it, but whoever wrote it, I thought, worded it very well. The headline is, “Government plan for on-ramp and Bus Interchange”. In that piece I mentioned that there was some good news in that —

... Minister Buswell has ear-marked funds from the 2011–12 Department of Transport budget to be used on planning —

That is, forward planning, for both the projects I have just mentioned— the on-ramp at Manning Road, and some kind of bus interchange at Canning Bridge.

The writer of the article went on to state —

The long-awaited on-ramp would enable residents in the southern part of our electorate to get onto the freeway south without having to take a circuitous route.

The Department will also engage in detailed planning for a new bus interchange that will take the big number of Curtin University-bound students off the bridge.

Under this proposal —

Buses will pick them up in a purpose built area —

I gather that is near the station or near the bridge —

before coming back onto the highway.

...

The department will also look at ways of providing safer pedestrian access to the train station.

As I said, the train station sits there with a freeway running through it, and people have to come across the bridge. There are on-ramps and off ramps to the freeway on Canning Highway, so some pedestrians have to navigate four or five sets of lights before they get to the station. A lot of these people in that part of my electorate are elderly people, and I am concerned about their safety. That is why I rise today, with the minister sitting right in front of me, which is very opportune positioning. I ask the minister: How far has the forward planning progressed on both these projects? Has the department come up with any specific costings for both projects? Are we getting any closer to having some sort of solution to what has been regarded for a long time as very significant transport problems in that part of the southern corridor of the City of Perth? I would be very happy if the minister could avail the house of those details.

**MR T.R. BUSWELL (Vasse — Minister for Transport)** [10.00 am]: If the member for South Perth ever wears that shirt and tie combination again, I shall not accept his grievance! I am glad he did not have that on last Tuesday when we were on a road trip through your electorate, Mr Speaker. We were at the Wednesday night pool champs at the Dalwallinu Hotel. We took on all-comers! The member for South Perth is a pool shark, having spent much of his misspent youth in the dark, dingy pool halls of Fremantle, which is perhaps where he picked up that get-up!

It is a good grievance. We had a look at the intersections. Interestingly, while we were looking at the bus station, a lot of people driving by honked their horns and waved in a very friendly manner to the member for South Perth. Bus stations are a big issue. I do not have the exact number of people going through the bus station, but I can tell the member that there has been a fair amount of activity in and around planning for the bus station. I am sorry for standing like this, Mr Speaker, but I am trying to get it across to the member. It is clearly acknowledged that the activity through that bus station is way beyond what anyone anticipated when it was put in. A lot of that has been fuelled by the link from there to Curtin University, and that is a good thing; that is actually what we want. The situation now is that the preliminary planning has been done. As I hope the member will be aware, there has been some fairly significant stakeholder engagement. I will leave the member with the latest plans I have of the proposed new interchange, because the existing one is completely unsuitable in the long run. People are crossing Canning Highway and there are buses and cars. It is not a very good outcome. The new proposal will sit effectively to the north of Canning Highway between the freeway and the river. I think we had a rough look at that area when we went out there. There are a couple of concept drawings that I can leave with the member, and also some more detailed planning records. It is designed to be quite low profile, but it certainly will provide a better outcome for the interchange between buses and trains in that particular area. We could call this the South Perth train station, if we were really bold.

**Dr A.D. Buti:** What about the John McGrath train station?

**Mr T.R. BUSWELL:** That is probably what locals will call it.

The next phase is to move on and develop the business case, and that will happen. Obviously, I am not in a position today to tell the member exactly how much it will cost or when we will fund it, but we are moving forward as committed in the budget. The preliminary planning has been done, the business case will now be

developed, and then we will need to make an investment decision. I will leave the plans with the member. I think it is a really good job of work that will provide a lot of solutions to the issues we discussed when we went out there.

**Mr J.E. McGrath:** That includes some pedestrian safety as well, doesn't it?

**Mr T.R. BUSWELL:** It is massive.

**Mr J.E. McGrath:** And walkways.

**Mr T.R. BUSWELL:** Yes, with walkways. It will be a fantastic outcome. I think that people who use that station, whether they be locals or people passing through it to Curtin University and/or other areas, will find it fantastic.

I can inform the member that Manning Road has progressed a little further. The business case for Manning Road has been finalised. Cost estimates are available. The business case shows that the cost of the Manning Road off-ramp is somewhere around the \$27 million or \$28 million mark.

**Mr J.E. McGrath:** Does that include the acquisition of land?

**Mr T.R. BUSWELL:** It does. In fact, land acquisition will be a fairly large part of the cost. I can leave a copy of the business case with the member to look through. The business case details the design options that Main Roads Western Australia has come up with in consultation with our consultant. It involves the closure of the Lockhart Street access onto Manning Road and a few other things. The member can look through the detail of that. It makes a couple of interesting points about how traffic moves through that precinct, which the member talked about. The member is right; it is very complicated. Again, I will not burden the house with these details, but on page 11 there is a very interesting snapshot of traffic volumes in different areas around there, with estimates for the coming years. It shows how busy that area is and the potential to capture some of the traffic that may move south. It makes some estimates of the daily usage of traffic on that on-ramp, but, again, I will let the member look at that. Clearly, it will provide a better outcome for local residents. Again, unfortunately, I am not in a position today to get out the chequebook and commence that work, but the commitment we gave in the initial instance was to progress with the planning and the business case. That has been done. Now we need to look at those two investment decisions.

I know what the Premier is looking at; I have raised the issue with the member for South Perth. That is what happens when the member gets a position of responsibility for the stadium—he starts dressing like a gangster!

**Mr C.J. Barnett:** The John McGrath stadium!

**Mr T.R. BUSWELL:** In terms of the precinct that we visited, I thought it was really great to go out on the ground and have a look with the member. When we are able to fund them, they will be significant upgrades for those two areas. The bus station is very important. I would go so far as to say that the bus station will probably have precedence over the on-ramp. The member may have a different view, and we can talk about that a little later. This will represent a significant improvement to the facility and the amenity for both road users and the people who use that bus station. I think it is great that the train–bus interchange at Canning Bridge is being used a lot more than we had anticipated. It is a good outcome, and it shows the value of a good public transport network to the people who live in that area. Hopefully, we are moving in the right direction. I am sure that the member would like it to be a little quicker. In that garb, it is not going to move much faster!

**Mr C.J. Barnett:** We'll see what he says about you in his newsletter!

**Mr T.R. BUSWELL:** He has a photo of the Premier on the front, which is good. I have been relegated to page 3! Hopefully, we are heading in the right direction and we will look at some money for that as part of the budget process.

## COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

### *Seventh Report — “Annual Report 2010–11” — Tabling*

**MR A.P. JACOB (Ocean Reef)** [10.08 am]: I present for tabling the seventh report of the Community Development and Justice Standing Committee entitled “Annual Report 2010–11”.

[See paper 3805.]

**Mr A.P. JACOB:** This is the third annual report of the Community Development and Justice Standing Committee in the thirty-eighth Parliament. This report gives a synopsis of the work of the committee during the reporting period from 1 July 2010 to 30 June 2011. In this period, our committee tabled a report on 25 November 2010 on its inquiry known as “Making our prisons work”, which looked into the efficiency and effectiveness of the state's prisoner education, training and employment strategies. An interim report had been tabled on 24 June 2010, just outside this reporting period, which focused on prison industries and associated employment activities.

The committee commenced its new inquiry into the adequacy and future directions of social housing in Western Australia on 27 July 2010, and we hope to table this final report by the end of 2011.

The work of parliamentary committees is an important component of our democratic process, and it allows a unique opportunity for members to work across parties to improve policy and governance for our community.

I take this opportunity to thank my fellow committee members for their dedication to their work and their ongoing goodwill in this process during the thirty-eighth Parliament. They include our chair, the member for Joondalup, who could not be here to table the report; the member for Pilbara, who has been on this committee since the commencement of the thirty-eighth Parliament; the member for Girrawheen, who joined us in replacement of the former member for Armadale; and my colleague the member for Morley, who has also been a member of this committee since the commencement of the thirty-eighth Parliament. On behalf of the committee, I acknowledge and sincerely thank principal research officer Dr Brian Gordon and ongoing research officer Ms Jovita Hogan for their invaluable work and support of this committee, particularly over the past year. Dr Gordon has left the committee after four years to move on to another committee—the Education and Health Standing Committee, I believe—and I would like to welcome Dr David Worth to the role of principal research officer for the Community Development and Justice Standing Committee.

I commend the report to the house.

### **JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION**

*Seventeenth Report — “Acting Parliamentary Inspector’s Inquiry Concerning Examination Procedures by the Corruption and Crime Commission” — Tabling*

**MR J.N. HYDE (Perth)** [10.11 am]: I present for tabling the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission titled “Acting Parliamentary Inspector’s Inquiry Concerning Examination Procedures by the Corruption and Crime Commission”.

[See paper 3806.]

**Mr J.N. HYDE:** This report reproduces opinions and findings expressed by the acting parliamentary inspector in an inquiry that looked into the examination procedures of the Corruption and Crime Commission. Although the acting parliamentary inspector’s position was that the outcomes of the inquiry should not be published, the committee has determined that this inquiry has uncovered several important general matters that ought to be brought to the attention of Parliament and the public of Western Australia.

On 22 April 2011, the Parliamentary Inspector of the Corruption and Crime Commission, Hon Chris Steytler, advised the committee of an inquiry by acting parliamentary inspector Christopher Zelestis, QC. Although the acting parliamentary inspector’s inquiry focused on alleged misconduct of commission investigators during the Smiths Beach investigation, many of the opinions expressed have broader implications for the CCC’s examination practice. This has prompted the committee to report to Parliament on those outcomes of the acting parliamentary inspector’s inquiry that our committee considers to be relevant in this regard and therefore very much in the public interest.

It is evident from the acting parliamentary inspector’s inquiry that the CCC must give full and objective consideration to the criteria identified in section 142 of the Corruption and Crime Commission Act when determining whether to open an examination to the public. This is particularly crucial when there are grounds for suspicion but no firm evidence of misconduct. The acting parliamentary inspector also found that the commission does not have the power to publish or report a finding or opinion that a person has given false evidence before the commission, as this contravenes the CCC act.

This report does not include a complete analysis of the acting parliamentary inspector’s conclusions. These and other matters will be considered in more detail as part of the committee’s inquiry into the use of public examinations by the CCC, which is underway.

### **PERSONAL PROPERTY SECURITIES (COMMONWEALTH LAWS) BILL 2011**

*First Reading*

Bill read a first time, on motion by **Mr R.F. Johnson (Leader of the House)**.

Explanatory memorandum presented by the Leader of the House.

*Second Reading*

**MR T.R. BUSWELL (Vasse — Minister for Transport)** [10.16 am]: I move —

That the bill be now read a second time.

The Personal Property Securities (Commonwealth Laws) Bill 2011 seeks to adopt the commonwealth Personal Property Securities Act 2009 and refer to the commonwealth Parliament the power to amend that law pursuant to section 51(xxxvii) of the commonwealth Constitution. This bill is one of two bills being introduced to implement

the Council of Australian Governments' personal property securities reforms in Western Australia. The second bill is the Personal Property Securities (Consequential Repeals and Amendments) Bill 2011, which I will refer to separately. These bills will give effect to the intergovernmental agreement endorsed by the Council of Australian Governments on 2 October 2008 to establish a single national legislative scheme for the regulation and registration of security interests in personal property.

More than 70 commonwealth, state and territory acts regulate interests in personal property. Considerable overlap between jurisdictions places a burden on businesses and other users who deal with multiple systems, each with different rules and requirements. The personal property securities reforms have seen the introduction of a national law, the commonwealth Personal Property Securities Act 2009, which will create a uniform and functional approach to personal property securities. The introduction of the new personal property securities regulatory regime will provide greater certainty for both lenders and borrowers. It will lower the risk for lenders, improve the efficiency of financing against personal property and increase competition among providers of finance. It is expected that the reforms will increase the availability and lower the cost of finance for people and businesses wanting to use personal property as security, in particular, small and medium-sized businesses.

In 2005, the Standing Committee of Attorneys-General agreed to establish an officers' working group to examine personal property securities reforms. The working group examined existing personal property securities schemes in overseas jurisdictions and undertook extensive stakeholder consultation. In March 2008, COAG agreed to a broad regulatory reform agenda, which included personal property securities reform. An intergovernmental agreement for the national personal property securities reforms was signed at the COAG meeting in October 2008. The new personal property securities regime is expected to commence on 31 October 2011.

The commonwealth Personal Property Securities Act 2009, which was passed in November 2009, establishes the personal properties securities register and sets out a system that will apply to the registration, priority and enforcement of security interests in personal property when the national register commences operation. Personal property is any form of property other than land. It includes tangible goods such as cars, machinery, crops and artwork, and intangible property such as statutory licences and intellectual property rights. A personal property security is created when a financier takes an interest in personal property as security for a loan or other obligation.

The commonwealth act will not apply to land or land titles. At the insistence of the states, fixtures on land and water rights have also been excluded from the scope of the commonwealth act—at least for the time being. The terms of the intergovernmental agreement provide that the commonwealth act will not be applied to fixtures or water rights in any state or territory without the agreement of that state or territory. Although the proposed act contains clauses that refer power to the commonwealth government in respect of fixtures and water rights, these clauses will not commence until a day fixed by proclamation. There is currently no intention to commence these referral clauses. Both fixtures and water rights have a strong connection to land titles, which have traditionally been the prerogative of the states. The states and territories have recognised that there may be benefits to the inclusion of fixtures and water rights within the commonwealth personal property securities scheme; however, it has been recognised that before this occurs, a detailed analysis of the potential legal and practical implications of the treatment of fixtures and water rights as personal property would need to be undertaken. As a result of concerns raised by the Standing Committee on Uniform Legislation and Statutes Review, an amendment was passed in the Legislative Council that will require both houses of Parliament to approve a draft proclamation before the clauses referring power in respect of fixtures and water rights can commence.

The commonwealth Constitution enables the commonwealth Parliament to exercise a legislative power referred to it by a state Parliament. The Constitution also allows a state Parliament to adopt commonwealth legislation that has been enacted by relying on a power referred by another state Parliament. In both cases, referral and adoption, the law that ultimately applies in the state is commonwealth law. The commonwealth Parliament does not have sufficient legislative authority under the commonwealth Constitution to completely regulate the creation and enforcement of personal property securities. New South Wales enacted referral legislation when it passed the Personal Property Securities (Commonwealth Powers) Bill 2009 in June 2009. This referral of power enabled the commonwealth to enact the Personal Property Securities Act 2009. Referral legislation was subsequently enacted by Queensland, Victoria and South Australia prior to the passage of the commonwealth bill. As Western Australia and Tasmania did not refer power before the commonwealth bill was passed, some doubt was raised as to whether a referral was still possible. It was subsequently agreed by Western Australia, Tasmania and the commonwealth that instead of referring power, a legally cautious approach would be to adopt the text of the commonwealth act. The Western Australian government has previously used the adoption method of referral when enacting the Credit (Commonwealth Powers) Act 2010. The proposed act provides for the adoption of the Commonwealth Personal Property Securities Act 2009 and the referral of power to the commonwealth to amend that act. The referred power is narrow and limited. The proposed act also creates a mechanism to terminate the adoption and referral of power should that prove warranted.

The proposed act, together with the Personal Property Securities (Consequential Repeals and Amendments) Bill 2011, was introduced into the Legislative Council on 16 February 2011. The bills were referred to the Standing Committee on Uniform Legislation and Statutes Review, and the resulting report made several remarks in relation to parliamentary sovereignty. The minister dealt with the standing committee's concerns by moving amendments in the Legislative Council to delete several clauses that had been identified as Henry VIII clauses. Additionally, as I touched upon earlier, amendments were moved to require draft proclamations to be approved by both houses of Parliament in relation to the commencement of the referral of power over fixtures and water rights, and also with respect to the termination of this state's adoption of the commonwealth act. The requirement to obtain positive endorsement from both houses will ensure this Parliament is afforded the opportunity to consider the implications of these proclamations.

Finally, in response to a suggestion of the standing committee, the Minister for Commerce also tabled the Commonwealth Personal Property Securities Act 2009 in the Legislative Council to provide members with the opportunity to review the legislation that the proposed act will adopt. Today I will also table a copy of the commonwealth legislation for the benefit of members. The bills were passed by the Legislative Council on 18 August 2011. The enactment of these bills will facilitate the introduction of new arrangements that will apply throughout Australia and make it easier for businesses to operate across state and territory borders. The personal property securities reforms will lead to more competition within the finance industry while also ensuring that consumers throughout Australia have the same rights and benefits when dealing with personal property that are subject to finance.

For the information of members, I table a copy of the commonwealth Personal Property Securities Act 2009.

[See paper 3807.]

Debate adjourned, on motion by **Mr D.A. Templeman**.

**PERSONAL PROPERTY SECURITIES  
(CONSEQUENTIAL REPEALS AND AMENDMENTS) BILL 2011**

*First Reading*

Bill read a first time, on motion by **Mr T.R. Buswell (Minister for Transport)**.

Explanatory memorandum presented by the Minister for Transport.

*Second Reading*

**MR T.R. BUSWELL (Vasse — Minister for Transport)** [10.26 am]: I move —

That the bill be now read a second time.

The Personal Property Securities (Consequential Repeals and Amendments) Bill 2011, which I will refer to as the “consequential bill”, is being introduced together with the Personal Property Securities (Commonwealth Laws) Bill 2011 to implement in Western Australia the Council of Australian Governments’ personal property securities reforms. The consequential bill provides for matters consequent to the adoption of the commonwealth Personal Property Securities Act 2009 by the Western Australian Parliament, and also deals with matters of a transitional nature. In particular, it excludes certain statutory licences from the scope of the commonwealth act and preserves the operation of Western Australian legislation in instances where it has been determined that the legislation may not be able to operate concurrently with the commonwealth act.

As mentioned when discussing the Personal Property Securities (Commonwealth Laws) Bill 2011, personal property includes statutory licences. The expression “licence” is defined in the commonwealth Personal Property Securities Act 2009 as a right, entitlement or authority to deal with personal property, provide services, or explore for or exploit resources, provided such right, entitlement or authority is transferable by the licensee. A significant number of statutory licences created by Western Australian legislation fall within this definition, including mining and fishing licences. It is possible to exclude statutory licences from the operation of the commonwealth act by declaring them not to be personal property for the purposes of that act. This provides jurisdictions with the ability to carve out certain licences from the personal property securities scheme, where there are sound policy reasons for doing so.

A number of statutory licences have been declared not to be personal property for the purposes of the commonwealth act in the consequential bill. There are two main reasons for these exclusions. First, a large number of the licences that will be excluded are closely linked to the use of land. Land, fixtures and water rights have been excluded from the operation of the commonwealth act in order to preserve the traditional state legislative powers over land titles. The exclusion of these licences is in keeping with the exclusion of land, fixtures and water rights from the national personal property securities scheme. Second, licences have been declared not to be personal property for the purposes of the commonwealth act in instances it was never intended that a licence would be able to be used as collateral. For some licences, such as liquor licences, this intention is

evidenced in the legislation itself. An exclusion of these licences will make it clear that this form of personal property should not be used as security. The exclusions in the consequential bill are largely consistent with the exclusions made in other jurisdictions.

**Preservation of statutory priorities:** In relation to priorities for interests in personal property that are created under state law, which I will refer to as statutory interests, the commonwealth act allows state law to determine the priority between security interests in personal property to which the commonwealth act applies, and statutory interests. A number of Western Australian acts contain provisions that determine the priorities between statutory interests and security interests. The consequential bill inserts declarations into these state laws to ensure that the priorities continue to have precedence over the priorities set out in the commonwealth act.

**Inconsistency between state law and the commonwealth act:** The commonwealth act contains provisions which allow for the concurrent operation of the commonwealth act with state and territory legislation, other than in the event of a direct inconsistency, in which case commonwealth law will prevail. This means that state laws will not be excluded or limited by the commonwealth act to the extent that they provide for matters such as the creation, transfer, disposal or forfeiture of entitlements granted by or under state law; the kinds of persons who may hold interests in a licence or other statutory authority granted by or under state law; the forfeiture of personal property or interests therein, in connection with the enforcement of the general law or state law; and the transfer of property or interests in property by operation of state law.

**Repeal of state legislation:** Amendments to the Chattel Securities Act 1987 and the Co-operatives Act 2009, along with the repeal of the Bills of Sale Act 1899, will support a seamless transition to the Personal Property Securities Register by closing the registers that are created under this state legislation and transferring register data to the new national register in time for the expected commencement on 31 October 2011. The transfer of these registrations will ensure that they are treated as migrated security interests under the commonwealth act, which will ensure they receive a higher priority than security interests recorded on the Personal Property Securities Register after it commences operation.

Together with the Personal Property Securities (Commonwealth Laws) Bill 2011, the consequential bill will facilitate the implementation of the personal property securities reforms in Western Australia, providing benefit to both business and consumers by delivering more consistent, less complex, and cheaper arrangements in relation to security interests over personal property.

I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.

## **RESIDENTIAL TENANCIES AMENDMENT BILL 2011**

### *Second Reading*

Resumed from 31 August.

**MR P. PAPALIA (Warnbro)** [10.33 am]: When I last spoke on the Residential Tenancies Amendment Bill, I was in the midst of a discussion with the Minister for Transport regarding the challenges and problems surrounding antisocial behaviour in social housing. The minister attempts to tackle one component of this problem by this amending bill, specifically antisocial behaviour in social housing, but it is only a symptom of a far wider ailment that afflicts Western Australian society and therefore it is beyond the capacity of the Minister for Transport. Regardless of his intent and regardless of the undeniable energy he brings to the portfolio, he is incapable of dealing with the real problem. He is trying to tackle one specific symptom of the problem—antisocial behaviour in social housing—without having the tools.

The minister acknowledged, by way of interjection, that the problem with antisocial behaviour, which is a symptom of a wider malaise within Western Australian society, is in the field of law and order, for want of a better description. I believe the problem is a breakdown of respect and responsibility, which is a difficult, more expansive, and challenging problem. One minister alone cannot tackle the problem, regardless of how much unbridled energy he brings to the task, and one department alone cannot tackle it. When the ability to tackle prolonged antisocial behaviour in social housing is provided, we are not going to solve the problem because down the very same street upon which lies a state-owned house with Homeswest tenants there may well be private-housing tenants who have perpetrated prolonged antisocial behaviour. I received an email only last week from a resident in Port Kennedy who laments the fact that their quiet area has been destroyed by the recent arrival of people who insist upon consistently behaving in an antisocial manner. They frequently avoid any contact with police, despite repeated reports to the police. It is a remote area; there is no southern suburbs police station because the Barnett government sold off the land for the Secret Harbour Police Station and failed to provide adequate services in that area. These people, who own their own home, represent just as significant a threat as the people who may be Homeswest tenants in social housing. It is in fact unfair to suggest that the problem lies just in social housing. It is only a very small component of state housing tenants who create

problems. Similarly, it is only a very small component of private residents who behave in that manner. Also, a small number of people who own their own residences behave in an antisocial manner.

**Mr J.E. McGrath:** It is only a small percentage of the whole community.

**Mr P. PAPALIA:** That is right. The problem is more diverse; it is beyond the scope and capacity of one minister and one department. It requires a holistic across-government response, which is what the member for Willagee suggested when the Minister for Transport interjected and agreed with him.

I would like to make the point that there is an opportunity to apply a holistic whole-of-government response. We first have to identify where the problem lies. The government cannot go out, with a shotgun response, in an uncoordinated, unscientific, gut feel-type manner and apply a process right across the state, because that will require a spread of resources. The department has limited resources; the minister knows that. I would suggest that the problem is not as widespread as may be suggested at first look. Yes, it is true that there will be problems spread right across the state, but if we apply a little scientific analysis, we will see there are hot spots. There are areas within the metropolitan area and within regional communities that suffer inordinately due to antisocial behaviour. They are the ones that disproportionately suffer as a result of this type of behaviour. I feel they can be identified. It is not that challenging—there is a link.

We know that in Western Australia our current response within the law and order field fails. We know that 40 per cent of people who offend, and as a result end up in the prison system, reoffend within two years. We also know that 70 per cent of Indigenous people reoffend within two years. If the government widens the analysis window to five years, it is even higher. We know that a relatively small percentage of people in Western Australia offend at a very high rate, such that they end up in the prison system and keep revolving through the door. Those are the people who do, I would suggest, a significant amount of damage to our state. Those are the people who I would suggest lie behind a lot of the antisocial behaviour that we encounter. If the minister is looking for a way to tackle the issue in a scientific manner, if he is looking for a way to identify where he should focus resources and where he should apply the maximum amount of pressure so that there is a coordinated response from as many different agencies as appropriate, he should look at the guys who go into the prison system, come out and go back in again. We should use that justice reinvestment process whereby we get independent analysis of which neighbourhoods in the city and which communities in the regions have the most people going into the prison system and returning to their communities, and then going into the prison system again and coming back. Now the problem is —

**Mr J.E. McGrath** interjected.

**Mr P. PAPALIA:** I refer the member to my paper on justice reinvestment because he will not want me to give him a big lecture now. I can give him a brief summary of the answer, but I will not do it right now, member, because I am trying to focus on this antisocial behaviour challenge that we have, with one proposal for focusing resources so that they are more efficiently used and therefore magnify their impact.

Mr Speaker, I cannot recall whether I have had an extension of time.

**The SPEAKER:** I do not believe you have.

[Member's time extended.]

**Mr P. PAPALIA:** The point is that if we analyse what is done elsewhere in the world, other countries have managed to identify hotspots. It can be seen that, as I have suggested, communities suffer disproportionately but also contribute inordinately and disproportionately to the problem. When we focus our resources in a cooperative and holistic manner using a lot of different agencies rather than just a housing department, a much more effective, efficient and cheaper outcome for government can be achieved than we currently get. The problem was demonstrated no more clearly than in a response by the government to the report tabled late last year of an inquiry by the Community Development and Justice Standing Committee into the efficiency and effectiveness of prisoner education, training and employment strategies. It was a bipartisan report. Although the committee comprised a majority of opposition members, two government members were on it, and they agreed with it. It was a unanimous report that recommended that in Western Australia we should look at implementing a justice reinvestment strategy and at bringing a little bit of science to the table to respond to this problem of antisocial behaviour. In its recommendations 22, 23 and 24 it suggested the implementation of justice reinvestment strategies. Recommendation 22 states —

... a mapping exercise be undertaken to identify those communities currently delivering the highest percentage of population to the prison system.

Recommendation 23 is, in part —

that the government initiate a properly funded, evidence based, collaborative justice reinvestment strategy in one metropolitan and one regional 'high stakes' community identified by the recommended mapping exercise ...

Recommendation 24 is very important because it goes to the heart of what the Minister for Transport was referring to earlier when he said his department alone cannot tackle the problem. It states, in part —

that government at the highest level charge a lead agency to establish the proposed pilot Justice Reinvestment strategy to:

- have an over arching responsibility for each of the agencies collaborating in the strategy insofar as their deliverables to the strategy are concerned; and
- have control and be accountable for the pooled Justice Reinvestment budget.

This committee recommended that, as a trial, a number of government departments and agencies coordinate their efforts once they have identified these hotspots. One could be established in the metropolitan area and one in the regions and, in a trial, in a coordinated and focused approach seek a response by all appropriate government agencies to the problem. A tool for identifying where that effort should be directed are the communities that are delivering the greatest number of people to the prison system, because we know that, sadly, those people tend to reoffend and reoffend and reoffend and cycle through the prison system on a regular basis.

The standing committee report also supported the Minister for Transport's observation that he, with his department, cannot do it alone. The Minister for Corrective Services responded to the report, albeit seven months late; but that was not necessarily his fault because there was a change of portfolio in the meantime. In his response to the report, which was tabled in this place on 19 May, the Minister for Corrective Services acknowledged the value of the standing committee's recommendations regarding justice reinvestment and said outright that justice reinvestment cannot be achieved by the Department of Corrective Services alone and that it will require a government-wide approach. I agree wholeheartedly. He also said that the government acknowledges the desirability of collaboration among government agencies.

He went on to say that Australian and international research indicates that any justice reinvestment strategy requires a well-coordinated and closely monitored interagency approach. It was suggested that the sort of agencies that would need to participate in this sort of response in Western Australia would be Housing, because stable housing and access to support in the community have been identified as important factors for newly released offenders. Mental Health is another, and there is no surprise there because this government, like previous governments, is locking up mentally ill offenders rather than trying to treat them. Then there is the alcohol and drug-use agency. We know that is a serious issue and that is part of what I referred to yesterday, minister, when I suggested that mandatory sentencing for antisocial behaviour in social housing such as creating clandestine laboratories that might threaten children is a piecemeal, uncoordinated and incoherent response to a symptom. The challenge is the antisocial behaviour; the challenge is the reoffending of significant numbers of our prison population who reoffend time and again as a result of that experience in the prison system and are not receiving any sort of help to change their behaviour. It does not work. Threatening these people with prison is ineffective. In fact, by putting them in prison we are allowing them to coordinate and network and become more entrenched prisoners. I am not talking about serious high-end offenders; I am talking about low-key drug addicts who build clan labs in their social housing or their rental properties and, in that way, pose a threat to other people in society. They need more effective intervention than being thrown into prison where they get to network and become worse criminals.

The other necessary requirement identified by the Minister for Corrective Services, if we are to have a holistic response and implement a justice reinvestment strategy, was the provision of parenting and social supports. That all accords with the argument I have conveyed through my discussion paper on justice reinvestment written some time ago.

**Mr D.A. Templeman:** A quality paper.

**Mr P. PAPALIA:** The interesting thing about the Minister for Corrective Services' response to the Community Development and Justice Standing Committee recommendations is that he said the government cannot do it, not because it does not necessarily have the will, although I suspect that is a significant component, but because they do not have the data. According to the Minister for Corrective Services, it is not that justice reinvestment is not a good idea or that we should not do a trial as recommended in the member for Morley's committee's report. That is not the problem. The problem is that the department does not know which communities have the highest number of repeat offenders. The department does not have the statistics. That is the challenge. It says in here that mapping the communities that deliver high numbers of prisoners would ideally be achieved using the department's prisoner entry–exit date. However, the department does not currently have sufficient and/or reliable data on the location of prisoners before and after imprisonment. Also, all information to build a social economic profile such as educational level, employment history, income et cetera is currently collected on a voluntary self-reporting basis and is therefore incomplete. It goes on to say that although some of the required information is currently available, the development of a complete and reliable data set for the analysis that forms the basis of justice reinvestment would require a significant investment in further data development. That is obviously an overwhelming obstacle.

**Mr J.E. McGrath:** Would you like the department to know when someone comes out of jail or what?

**Mr P. PAPALIA:** Mate, I would think that most reasonable members of this place and most reasonable members of the public expect that if we are spending billions of dollars on a corrective service system—we commit billions of dollars over the forward estimates—and hundreds of millions of dollars in recurrent expenditure in just operating costs, we can expect that the government might want to have a bit of a look at where the clients, the troublemakers, are coming from and going back to. That might lead the government to question whether all the other agencies are focussing their efforts on the right place. Studies have been done in Australia, and internationally, but a good one was done in New South Wales that identified that, if we can reduce the rate of reoffending by only 10 per cent, it will take 800 people out of the prison system. If it costs \$100 000 a year to provide these guys with the comforts of the prison system, there is a massive windfall to be had by government by just identifying a little bit of data, by finding a little necessary information, to target and focus its resources in a more efficient manner. It is not the minister's fault. He did not invent this. The last government did the same thing and previous governments have done it forever. The issue is that we have not asked the questions, as indicated by the minister's response to this report, for want of funding proper analysis. I suspect that this may just be too overwhelming and too hard for the Department of Corrective Services; it cannot find \$100 000 or whatever it would cost to get some academic at UWA to do the analysis of the information from the departments and other agencies. It would find it too overwhelming because it does not have that money. I understand where the department is coming from. It is looking after its pot. It is swimming to keep its head above water right now. This should really be the role of cabinet and of influential ministers such as the Minister for Housing. If they expanded their vision, if they opened up what they are looking at beyond their own siloed area of activity, there may be the opportunity to make vast savings through the expenditure of only a relatively tiny amount. For the cost of locking up five prisoners a year, which is half a million dollars, I reckon the government could get a study done to identify which neighbourhoods in the city and which communities in the country are overwhelmingly disproportionately represented in our prison system on an ongoing basis. I reckon it could do that. Make it the cost of 10 prisoners a year.

**Mr J.E. McGrath:** You can nearly do it without a study.

**Mr P. PAPALIA:** I said that to the Chief Justice and he said, "I can tell you which one it is in the regions right now". I am sure that it would not be that challenging, but the government would want to do it in a scientific way. For the sake of allocating an amount equivalent to locking up 10 people for a year to do a little bit of research, that would then give the Ministers for Housing, Education, Health, Child Protection and possibly the Minister for Disability Services—all these people—the data they need to look at their own expenditure, effort and resourcing and whether they are using it in an efficient way. Are they applying the grey matter to get the maximum benefit for the taxpayers' dollar to reduce the rate of crime and antisocial behaviour and to restore respect and responsibility in the community? Let us spend a bit of money to find the target and to go at that target, rather than doing it in a piecemeal, haphazard, gut-feel manner. I am not saying that you guys invented it; I have said that on numerous occasions. It is habitually the response of government. Everyone is working very hard and they are operating in their own little world. This challenge is across all departments and requires an across-government response to have any sort of impact—even a tiny impact, such as a 10 per cent reduction in recidivism.

**MR T.R. BUSWELL (Vasse — Minister for Transport) [10.52 am]** — in reply: I thank all members opposite who have participated in this debate on the Residential Tenancies Amendment Bill 2011. I said to my staff the other day that this was actually one of the more engaging second reading debates in which I have participated. I appreciate all the input and views put by members opposite. It seems to me that the predominant issues—no doubt this will be teased out as we work through consideration in detail—were in and around antisocial behaviour. I will talk about those in a second.

I point out to the house that it is 11.00 am on Thursday. Exactly a week ago at 11.00 am on Thursday, or just prior to this, I was in Wongan Hills. While I was there I went to the shire chambers and was also shown around their town, which they are very proud of, and rightly so. At the shire chambers I also met with half a dozen residents from a street in Wongan Hills. The lives of those residents have been ruined—absolutely destroyed—because of antisocial behaviour in a property in that street. Interestingly, the antisocial behaviour is occurring in only one unit of a duplex. The duplex unit behind, which is also Department of Housing property, is occupied by a person who is making a positive contribution to the community and who is valued by neighbours. That is a very important point to make. I met with these people whose lives have been ruined. These people were very emotional. One man was unable to attend the meeting; I understand he was receiving some mental health care as a result of the circumstances he is in. When I meet with people like that, my resolve to maintain a firm line against antisocial behaviour is strengthened. They are not the only people I have met like that. All members in this place would have met people in similar circumstances. This is a very difficult issue. I will talk a bit more about the antisocial provisions later. I have met other people. The member for Rockingham likes to make out that I nipped out to Stacey Parkinson's house simply because she was Stacey Parkinson. She had been

traumatised by the people in her complex who had been operating a clandestine drug lab. I have met dozens of people. I met some people in the member for Wanneroo's electorate in Banksia Grove. Those people were literally in tears as they described the impact on their lives. I have spoken before about the profoundly deaf couple whom I met while I was out with the member for Jandakot whose lives had been devastated through no choice of their own; they had been lawfully owning and renting properties. We are not going to stand for that. We have taken a firmer line on antisocial behaviour. I will touch on that in a second.

It is important for members to understand that this is a quite broad-ranging bill. Yes, there will be some debate around antisocial behaviour. I appreciate the opposition's broad support for the bill, although I understand and respect the points of difference around antisocial behaviour. It is a broad bill. The bill had its genesis from three sources—one being a statutory review of the act, which led to a range of recommendations and changes; one being the government's policy desire to take a firmer stance against antisocial behaviour, with changes required to the current act to assist in the fair implementation of those changes; and, finally, a very strong desire on behalf of the government and I think everybody in this place to help regulate the use of residential tenancy databases. We have all had people come to our offices who, for a range of reasons, some of which have later proved not to be reasons, have had their names put on a residential tenancy database, and that has made their lives very difficult. The member for Nollamara said that 24 or 25 per cent of people in dwellings in Western Australia live in rented accommodation. It is very important that the statutory framework that controls the relationship of these people with their landlords is as good as we can make it. It is very important that people are not denied access to accommodation through the inappropriate use of residential tenancy databases. A whole range of provisions in this bill are very positive. There has been a lack of debate about them, but we all support them because they help maintain in a very balanced way the relationship between landlords and tenants. I will quickly go over some of those provisions for members. We are talking about things like using prescribed forms to manage the relationship; making improvements to the production of property condition reports; making improvements in and around bond administration; the provisions concerning the fact that property managers can represent landlords and representatives of not-for-profit organisations can represent tenants in legal cases; the issues around antisocial behaviour, which I will address in a second; and the issues around the regulation of residential tenancy databases. The point to make is that it is a very broad-ranging bill.

I will have a quick discussion about the policy. A lot has been said about the need to have a more holistic approach to antisocial behaviour. I will not argue with that at all. In this state we have a supported accommodation process. We also have been trialling early intervention teams in the south eastern region out of the Cannington office and in the southern metropolitan region out of the Fremantle office, which are designed to become involved—yes, member?

**Ms J.M. Freeman:** I understood that that trial had finished and that it is no longer happening.

**Mr T.R. BUSWELL:** No. As I understand it, that team of people has been rolled more broadly into the antisocial team that the Department of Housing has set up, but my understanding is that the engagement is still happening. In fact, I said to the department the other day that I would like to see the results now. I have seen periodic results. Where there is an engagement, the results are pretty good. Of course, we cannot force a tenant to engage. That is a bit of an issue. So I have asked the department to provide me with the results so that we can work up a business case to see whether we can invest more resources in that and roll it out more broadly. If the results look good, we definitely need to give that consideration.

**Ms J.M. Freeman:** Will those results be something that you could do a briefing on for other parliamentary members? I had a briefing on it when you first released the trial. I am quite interested in it. I know that the special housing assistance program funding has had no significant increases over the 20-odd years that it has been operating, so I am interested in getting a briefing. Is that possible?

**Mr T.R. BUSWELL:** Yes, of course. As the member for Victoria Park would have found out, I provided him with a range of breakdowns of evictions of Aboriginal versus non-Aboriginal tenants. Outcomes will be delivered by this that we have to grapple with. It is pointless my trying to hide from them. I am just trying to come up with some decent policy answers. Of course, people may disagree, but I think it is incumbent on all of us to be open about it because it is a huge social issue.

I will go back to what I was saying. In and around that more holistic approach, we have trialled, and I am very keen to see how we can expand, the early intervention teams. There is the process for the supported housing assistance program; that is happening. There are the 200-plus dwelling units that the department is building this year specifically for people with mental health issues, disabilities and drug and alcohol issues. Accommodation will be provided in those houses with a range of services wrapped around the individual. I think that is very important. I said to the member for Warnbro the other day that one of the most difficult decisions I had to make as housing minister—this was previously—was about accommodation for one Gary Narkle, who was supposed to have been in prison until he dropped dead but who, unfortunately, was out of prison and living, I think, in a park in Gosnells or Armadale; I did not know exactly where. The department came to me and said, "We

recommend to you that we provide a house for Gary Narkle.” I said, “I think Gary Narkle has lost his right to have a house in Western Australia, to be frank.” However, the argument was put to me, and I accepted the argument, supported by the police, that it is much better to have Gary Narkle in a house—he had a lot of support around him; unfortunately, he reoffended, which I think is probably a reflection on the individual —

**Mr M. McGowan:** I’d say so.

**Mr T.R. BUSWELL:** Yes, I think so too. But it was better to have a house there with some support around him to try to lessen the impact of him interfering with, or engaging in some disgusting act with, a young person in a park.

**Mr P. Papalia:** The danger in the discussion is that we isolate and focus on the Narkles of this world. It is my view and your view probably that he should stay in jail, but there is a larger group of people whom we should be focusing our energies on and trying to target with whatever response we devise.

**Mr T.R. BUSWELL:** Yes. I was not trying to sensationalise it.

**Mr P. Papalia:** No, I know that.

**Mr T.R. BUSWELL:** I was just trying to say that there are these extremes. Now, that did not work. But the reason we agreed to give Gary Narkle a house was not for Gary Narkle; it was for the person whom he may next have interfered with when he was living in the park. That is the reason. In my view, he lost his right to be a free person a long, long time ago, and for us to have to provide him with a house was a very difficult decision to make, but I think it was right. I was very offended. Unfortunately, if the former Attorney General had got it right, he would never have been out of prison, but that is a story for a different day.

We are making efforts in that area. The houses that will come on stream, especially those homes for people with mental health issues, will have that support wrapped around them. We have to deal with some pretty difficult circumstances. At the moment there is a person who has a mental illness—I do not think we need names—and who caused a lot of problems in a housing unit. He assaulted two police officers with an implement, and we have to deal with that. It has not worked through the court process yet, as I understand it, but, quite clearly, they are the challenges that we have. The best spot for that person is not in a standalone Department of Housing property; it is in a place where that person has support.

**Ms L.L. Baker:** They followed him into the hospital, though, minister, and got his signature on an eviction notice while he was in hospital.

**Mr T.R. BUSWELL:** Again, that is a matter we are working through in a way that reflects the concerns of all the people who live where he was living and of that individual. I am chronically aware of these types of sensitivities and trying to come up with a balance, and it has been difficult. It has been difficult for me and it has been difficult for the department. The Department of Housing has a long history of sustaining tenancies. My view is that we are trying to put a bit more policy balance in that pendulum. That is a government policy decision; it is nothing to do with this legislation—there are some bits about how you evict people in this legislation. It is an ongoing discussion that I have with the Director General of the Department of Housing.

**Mr J.E. McGrath:** What has happened with public housing is that 30 years ago young families went into public housing, and that was the stepping stone to maybe being lucky enough to buy your own house. Today you don’t find many of those families in public housing. It is more people with issues who have problems in their lives and need support.

**Mr T.R. BUSWELL:** Yes. I will quickly point out—it is not specifically to do with the bill—that it is also a reflection on some of the policy decisions that were made. We are now engaged in some partnerships; for example, with St Bartholomew’s House with its Lime Street development, with Anglicare WA—I heard Mr Carter’s name mentioned—with the Foyer Oxford development, and with a couple of others that will be announced soon. These are really positive initiatives in trying to deal with people who are at the acute end of the housing spectrum and who are homeless for a whole range of reasons. This is saying that we have to focus on more than four walls and a roof; we have to focus on people coming out with the capacity to be sustainable tenants. If people have a chance to meet with Lynne Evans and understand what is being done at St Bartholomew’s House with the Lime Street project, they will see that it is fantastic. We have put more than \$20 million into that development, and it really is a great model for dealing with a subset of people who are at the acute end of the housing spectrum.

I do not want to take too long on this, but I will deal with some of the issues raised by some members opposite during the debate. A number of members raised the issue of the new penalties in the legislation. There are, as I understand it, some new areas where penalties will apply, but also some new penalties. The advice I have—we can flesh this out further—is that the penalties in this bill have been set to be equivalent to the penalty provisions currently in the Residential Parks (Long-stay Tenants) Act. I suppose the view taken as part of the process was that if it was a good enough penalty to apply to an owner of a caravan park if they were trying to illegally or

improperly turf out a tenant, it was probably a fair thing to apply to a landlord in a non-caravan park situation for those types of activities. It was just designed to deliver some parity, as I understand it, with those two acts.

A few members raised the issue of the extent of consultation. The member for Mandurah raised the issue of the extent of consultation on behalf of the Property Owners' Association of Western Australia, and I think the member for Victoria Park on behalf of the Tenants Advice Service. In relation to the Property Owners' Association of Western Australia, I can advise the house that there was a two-stage review of the act. The first was a review conducted by Stamfords consultants, which called for written submissions and which had focus groups and public forums. Then the department released the Stamfords' report and engaged in a second round of consultation. The Property Owners' Association of Western Australia made written submissions to each stage of the review—so it had an opportunity to participate formally—and its views were noted throughout the review report. In addition, the Department of Commerce has advised me that it met with the Property Owners' Association of WA on a number of occasions during the drafting of the bill to ascertain its views, and the POAWA was invited to, and did attend, an informal session regarding residential tenancy database provisions. It would appear to me that that the Property Owners' Association of WA has been reasonably heavily engaged in this process, notwithstanding its recollection of that engagement.

I am advised that the Tenants Advice Service was engaged in the consultation, particularly regarding the antisocial behaviour provisions. Indeed, it corresponded on 9 February 2010. I will not read out the whole letter, but it says, in part, that the TAS welcomes the opportunity to comment on the proposed legislative changes sought by the Department of Housing in managing perceived disruptive behaviour in public housing tenancies. Again, I respectfully suggest that those organisations have had an opportunity to participate.

The member for Mandurah raised issues regarding activity in the courts and bond disposals. My advice is that in 2010–11 there were 5 184 applications to the court for an order for the disposal of a bond and that approximately 569 of those were disputed. I am assuming that people get to the point at which they get a bit frustrated that they cannot get their bond back, they apply to the court, and in the vast majority of cases the bond is given back. There are a handful of cases in which there is a dispute. My advice is that court action represents about five per cent of all bond disposals. As a snapshot, between 11 and 15 July 2011, the Department of Commerce disposed of 961 bonds. We hold about 60 per cent of all bonds. Ninety-one of those were by consent of the parties, and nine per cent were by court order. I am not sure where Mr Wild obtained all of his data or whether the member for Mandurah got a bit overexcited in his reading of it. I have never known him to get overexcited in this place! However, I think that is a very good snapshot of the levels of activity in those areas.

I will touch on a couple of other issues that were raised. The member for Nollamara raised the issue about protection from excessive rent increases. My advice from the department is that under section 32 of the Residential Tenancies Act a tenant can make an application to a court about a rent increase in only two circumstances—that is, when there has been a significant decrease in the chattels provided with the premises or the landlord is motivated to increase the rent by a desire to end the tenancy. Our reading of clause 30 of the bill is that it removes those two qualifiers, which means that a person's reasons for disputing rent and going to court can be more than just those two issues; it is pretty much open. We can tease that out a little more in consideration in detail, but that is certainly the reasoning behind the drafting of those two provisions of the bill.

The last area I will quickly touch on, because I am pretty keen to get on to the consideration in detail stage, is the changes we want to make to the way in which people can be evicted. The member for Gosnells raised some fair issues around some changes to section 64 of the Residential Tenancies Act. It is important to understand that section 64 of the act gives people—not only the department, but also others—the right to terminate a tenancy without grounds.

**Ms J.M. Freeman:** Minister, is it not the case that some magistrates have told the department that they cannot use section 64 for public housing —

**Mr T.R. BUSWELL:** I do not know. It could well be the case. I know one thing: generally speaking, all else being equal—*ceteris paribus*, as I think the Treasurer would probably say; is that right, Premier?

**Mr C.J. Barnett:** All other things being equal.

**Mr P. Papalia:** It's the economists' catchery, isn't it? You used that all the time.

**Mr T.R. BUSWELL:** That is the reason that things did not happen as anticipated. What were we talking about?

All other things being equal, it is harder for the department to evict public housing tenants than it is for private landlords to evict private tenants.

**Mr M. McGowan** interjected.

**Mr T.R. BUSWELL:** Sorry?

**Mr M. McGowan:** You're a well-known Latin scholar!

**Mr T.R. BUSWELL:** That is right, and poet; reader of Henry Lawson—no, who were we talking about yesterday? Banjo Patterson. *The Man from Ironbark* is a great piece. Sometimes when I look at some of the opposition members, they remind me of a line from *The Man from Ironbark* —

There were some gilded youths that sat along the barber's wall.  
Their eyes were dull, their heads were flat, they had no brains at all;  
To them the barber passed the wink ...

And so on. Anyway —

**Ms J.M. Freeman:** We are debating a serious issue.

**Mr T.R. BUSWELL:** Sorry, it was the Premier's fault!

We can tease that out. I am not aware of that, but it may well be the case. I am getting some nods from my advisers at the back, so it is the case. Getting back to the issues the member for Gosnells raised, new section 64 can actually soften some of those provisions because it gives the opportunity for the tenant to go back to the court and seek an extension for another 60 days. It does not take that away. Historically, section 64 is recognition of a property owner's right to have possession of their premises if required. It would be fair to say that the department has not liked using section 64. Certainly the Commissioner for Equal Opportunity made some comments about that in the report, which the member for Nollamara referred to. The department will use it a little more frequently now.

**Ms J.M. Freeman:** You've tried to use it under the three-strikes policy, but there are some magistrates that will not allow you to use it.

**Mr T.R. BUSWELL:** Effectively, the new sections we seek to introduce in this bill—we will talk about this in consideration in detail—are to give the department the capacity to address what we see as being a shortfall at the moment in implementing the three-strikes policy. We have issues with section 62 and with using section 64. I think in cases of antisocial behaviour, section 64 is a recipe for disaster. If we say to people, "We're going to evict you because of antisocial behaviour, and you have got 60 days", sometimes the outcome of giving the tenant that 60 days—and I am not sure this has happened, but it is conceivable—could be a complete disaster for everybody, including the tenants.

**Ms J.M. Freeman:** But it never actually goes to the court. In most cases when the notice of breach is issued, I think you will find, if you looked at your stats, probably about 85 per cent of homes are vacated at that time. The difficulty then is that they vacate in such a manner that leaves the house —

**Mr T.R. BUSWELL:** I do not think that is right. I gave some interesting figures yesterday to the member for Victoria Park. I might be able to get them back again, if we go through the lunchbreak. There are three points at which people leave: some leave when we issue the notice; some leave when we go to court and get the court order; and others leave when we get the bailiff. I gave to the member for Victoria Park yesterday a pretty detailed breakdown of information for Aboriginal and non-Aboriginal tenants. I told him that I am happy to keep providing that information, because we cannot hide from the facts. If people are being evicted, they are being evicted. I do not want to hide from who we are evicting because, as a number of members have pointed out, it highlights some broader issues we have to get our heads around. I do not know the answers yet, but I remain quite firm in my conviction that we have to take steps to protect communities. Frankly, the opposition's amendments gut what we are trying to achieve with this legislation. They will basically take away our right to use new section 75A—to implement the three-strikes policy. We are just not going to accept that. We will talk about that a bit more in consideration in detail.

Hopefully I have covered most of the more substantive issues that have been raised. I thank members opposite for their participation in the debate. I enjoyed listening to the speeches and some very important points have been made. Appropriately, a lot of the points that have been raised highlight that some of the issues confronting people in houses are much broader than what is being tackled by this bill. However, this bill is a small but important part of what we think we need to do in government. It supports the policy decisions and directions that we have made on antisocial behaviour. Is there more to be done more broadly? Absolutely. Is housing a complex issue? It most definitely is. I say again that, from the point of view of the Department of Housing having to deal more broadly with housing issues, we simply have to move our focus away from just building homes for people. Yes, that is important, but we have to focus more on the sustainability of the tenancies and, at the other end, on affordability issues. Fundamentally, if we do not address affordability issues, we are going to have continuing and sustained pressure on social housing in Western Australia. I look forward to the consideration in detail stage of the bill.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

*Consideration in Detail***Clause 1: Short title —**

**Mr M. McGOWAN:** I rise as the shadow Minister for Housing to put on the record our view of this legislation so that anyone who may not have been here for the second reading debate is aware of it. We will support this legislation because it contains a range of good and balanced measures that have been the basis of a considered review that has consulted all sides of the housing industry as to what is right, appropriate, fair and just. We will support the bill because the majority of it is good. But there is one part of this bill that is bad, and that is the part that discriminates against social housing tenants over private tenants. We will not support discrimination against people living in public housing over those living in private housing. One of the amendments that we will move seeks to remove that discrimination from the bill. The second amendment we will move seeks to ensure that when there are cases of serious illegality, it becomes easier to evict a tenant. We have had a rash of clandestine laboratory explosions in rented properties around Western Australia, and we think that the courts should have an easier capacity to evict people in those cases. However, the government has included in that provision the capacity to evict someone for what has been termed “interference” and the capacity to evict a tenant for permitting what has been termed a “nuisance”.

**The ACTING SPEAKER (Mr P.B. Watson):** Member for Rockingham, we are talking about the short title of the bill. It is not a debatable matter, apart from the short title of the bill.

**Mr M. McGOWAN:** The short title of the bill is the “Residential Tenancies Amendment Act 2011”. I want to talk about residential tenancies for a moment. Maybe the bill should be renamed in light of what the government is doing—that is, discriminating against social housing tenants. Maybe the bill should be called the “Residential Tenancies Amendment (Discrimination against Social Housing Tenants) Bill”.

**Mr T.R. Buswell:** Why don’t you move that as an amendment?

**Mr M. McGOWAN:** I will speak to it if the minister would like me to. Indeed, as the minister has challenged me, that might allow me to say what I am about to say. The next issue I want to talk about is discrimination. I also want to talk about the impact of these amendments on children. Yesterday the Premier stood during question time and talked about children. I heard him on national radio this morning talking about the children of asylum seekers and unaccompanied minors coming to this country as asylum seekers and railing against any federal government policy prescription about that problem to send those children overseas. I think he said words to the effect that it is to the eternal shame of the Labor Party that it supported it and did not have the courage of its convictions to stand up for children. We are going to put the Premier to the test. We are going to move an amendment to this legislation.

**The ACTING SPEAKER:** Member for Rockingham, we are talking about the short title of the bill. You will have a perfect opportunity to talk about this throughout the different clauses. I have to bring you back to talk about the short title of the bill; otherwise, I will sit you down.

**Mr M. McGOWAN:** Thank you, Mr Acting Speaker. The bill refers to residential tenancies. Maybe it should be amended to refer to the impact of the changes to residential tenancies on children. In that regard, we think that children should be taken account of. In terms of the short title of this bill, this is a test for the Premier to say whether he thinks children in Western Australia should be mistreated. He obviously has a concern about unaccompanied minors coming to this country, as do I. But we also have a concern about children living in tenancies in Western Australia. We are going to move an amendment to the bill to provide the Premier with an opportunity to say whether he thinks Western Australian children should be able to be thrown onto the street without any consideration by the court.

**Mr T.R. BUSWELL:** Just very quickly, given the nature of the debate around the short title, maybe we should change the title to the “Residential Tenancies (Protection of Neighbourhoods) Bill”. If this is how members opposite want to hold the debate, I am happy to participate. As I said before, there is a lot of really good stuff in this bill. I am happy to talk about some of the issues that happen in neighbourhoods. I have met people whose children cannot go outside and play. I have met people who are living entirely lawfully in their own homes, but cannot allow their children to play outside and have to lock themselves in at night for fear of the tenants next door. I can give members an example of a disabled lady in a wheelchair whose home gets broken into because all sorts of rabble-rousers from next door think that the best place to have a fight is in her front room. I am happy to rename this bill—no, I am not, but if members opposite want to play those sorts of games, we could call it the protection of neighbourhoods bill, because that is what this is about. It is about a road to finding a balance. It is not always easy. It is not an easy policy area. Yes, kids will be affected. Some children will be the children of the tenants we evict. We do not have tenancy agreements with children; we have tenancy agreements with adults. If those adults behaved appropriately and respected their communities, they would not be evicted.

**The ACTING SPEAKER:** Minister, I did tell the member for Rockingham the same thing. Can we just get back to the short title of the bill?

**Mr T.R. BUSWELL:** Members will have people in their electorates and they will know of families whose children are locked in at night because of the impact of disruptive neighbours. For every example in this debate, there are plenty of other examples, and I am happy to share them. Members need to understand very clearly that we have a strong policy view around protecting neighbourhoods and restoring a bit of balance in this debate. I will get up in this place and defend that for weeks if I have to.

**Mr P. PAPALIA:** I share the member for Rockingham's concerns that perhaps the title of this bill should have some focus purely on social housing. The diatribe that we just heard from the minister suggests that he thinks the only antisocial behaviour that occurs in Western Australian neighbourhoods is perpetrated by social housing tenants alone. That is absolutely ridiculous. For every example he can give, which he suggested and just made up —

**Mr T.R. Buswell:** I didn't make it up.

**Mr P. PAPALIA:** For every example that the minister throws out there, I can throw him an example of residents —

**The ACTING SPEAKER:** Member for Warnbro!

**Mr P. PAPALIA:** — who are upset by the antisocial behaviour of people who own their houses —

**The ACTING SPEAKER:** Member for Warnbro!

**Mr P. PAPALIA:** — or people who rent privately.

**The ACTING SPEAKER:** Member for Warnbro, sit down, please!

**Mr T.R. Buswell:** You idiot.

**The ACTING SPEAKER:** Members, let me clarify this. We are talking about the short title of the bill. Anybody who gets away from that I will sit down. Members, the question is that clause 1 stand as printed.

**Mr M. McGOWAN:** I just want to talk briefly about the short title of the bill. It is indeed the "Residential Tenancies Amendment Act 2011". As I said before, I do not think the bill is appropriately named, because it discriminates against social housing tenants and could have an adverse impact on children. I think the title of this bill is perhaps not appropriate. That is why, during the course of this debate and perhaps even during debate on this clause, we will move to amend this bill so that it toughens up on illegality, it removes discrimination against social housing tenants and, when a tenant is being evicted, it takes into account the impact on the children at that property and the impact on children from surrounding properties. We want the impact on children to be taken into account in this bill. The short title should reflect the impact of these laws on Western Australian children. We have concerns about not only unaccompanied minors being sent to Malaysia, but also Western Australian children. Now is the opportunity for the government to vote on whether it cares about Western Australian children in the same way as the Premier yesterday said he cares about unaccompanied minors going to Malaysia. This will be a test for the Premier on whether he shares those concerns about Western Australian children potentially being thrown on the street and neighbouring children being affected, and whether a court can take that into account.

**Ms J.M. FREEMAN:** I rise to speak about the short title of the Residential Tenancies Amendment Bill. I also wish to question the minister about his contribution to this title and changing it to "Protection of Neighbourhoods". I put to the minister that the protection of neighbourhoods is available because people enter into agreements with their tenancies. Section 62 of the act ensures that if those agreements are breached in the ways raised by the minister, we have the procedural capacity to evict those tenants. Under this bill we are taking away the rights and the capacity of people to defend their tenancies. Therefore, the government is misleading us by calling this the Residential Tenancies Amendment Bill and then saying that it could introduce the bill as "Protection of Neighbourhoods". No-one in this place does not want to protect neighbourhoods or wants to be unable to deal with bad behaviour. This is about dealing with bad behaviour. This is about being a proper landlord who deals with people in a proper and procedurally appropriate way. These people do not need to be treated in a bad manner. The minister can groan and moan, but he is putting us in a cycle in which he does not protect neighbourhoods or our community. This bill takes away those protections and actions that ensure people are dealt with appropriately.

**Mr T.R. BUSWELL:** I am not sure whether we will deal particularly with section 62 of the act, but it is important. I will be very brief. The member needs to understand how section 62 works—14-day breach notice. Someone is given a breach notice and behaves for 14 days—finished. I have seen files that show people with dozens and dozens of breach notices. It is very difficult to evict for continual antisocial behaviour using section 62.

**Mr M. McGowan:** Why?

**Mr T.R. BUSWELL:** Because of the 14-day breach notice.

**Mr M. McGowan:** Look at one of our amendments.

**Mr T.R. BUSWELL:** We will deal with that point a bit later. These changes are needed to assist us in the implementation of the three-strikes policy. The point to be made is that the ultimate decision is not with the Department of Housing; the ultimate decision is with the court. As the member for Victoria Park and I discussed the other day, this will be an evolving space as courts deal with these particular issues. I anticipate that the court will look at a variety of factors in making its determinations. Time will tell, but the current framework does not work.

**Mr M. McGOWAN:** The minister made some reasonable points on the short title. I also want to make a few points on the short title. When the court takes into account those issues about the behaviour of a particular tenant and whether that tenant should be evicted, it should be expressed in law that the court takes into account the interests of the children in that property and surrounding properties. That is what we are proposing. If the minister wants to vote down expressly in the bill the interests of children who may be thrown in the street or may be living nearby, be that on his head. Our amendment is in the house. In light of what the Premier said yesterday, we are flagging this issue for the government so that it can look at the interests of Western Australia's children and see whether it regards them as seriously as it regards the interests of asylum seeker children.

**Clause put and passed.**

**Clauses 2 to 4 put and passed.**

**Clause 5: Section 3 amended —**

**Mr C.J. TALLENTIRE:** I am concerned about the definition of “property manager” in clause 5. In my contribution to the second reading debate I said how we find that the quality of property managers is highly variable. Some people overuse their authority and are generally unfair on tenants of properties. The definition of “property manager” in clause 5 provides that a person must be licensed under the Real Estate and Business Agents Act 1978. When we do a bit of searching and go to the Real Estate Institute of Western Australia website to find out how someone goes about getting a licence under the Real Estate and Business Agents Act 1978, we can see that all they need to do is a five-day course. I put to the minister that a five-day course is probably totally inadequate preparation for a property manager who often supervises complex situations that vary in nature from technical matters of home maintenance through to understanding the repayment schedules that might be possible for someone to tackle. I am concerned that the definition of “property manager” is inadequate and needs to be made much stronger. Furthermore, I am concerned that someone could do this five-day course and therefore meet the requirements of being licensed under the Real Estate and Business Agents Act, but then appoint someone else to be their agent to go out and—I think they would probably use the term—deal with tenants. Paragraph (b) of the definition of “property manager” reads —

- (b) In relation to a residential tenancy agreement, the agent of the lessor of the premises to which the agreement relates;

I am concerned about a loose interpretation of “the agent”. I am aware that in some cases property managers take very heavy-handed approaches to tenants and sometimes use people who would normally be described as standover men. That is a very poor thing to have entrenched in this legislation. I am interested to hear what measures will be taken to ensure that this definition of “property manager” is not abused and that in the future we can have a system in place that ensures that property managers have done more than a five-day course. I note from REIWA that people can even do that course online. It is obviously a very lightweight course and it would probably be inadequate preparation for anyone doing this kind of work.

**Mr T.R. BUSWELL:** I thank the member for Rockingham for the amendments that he has just circulated. I am interested that these matters did not come to the member's attention when he put his other amendments on the notice paper —

**Mr M. McGowan** interjected.

**Mr T.R. BUSWELL:** No doubt.

**Mr M. McGowan:** There are other ones to do with children.

**Mr T.R. BUSWELL:** Yes, but it was not that one. That is okay. That is what we call political expediency over policy. I am assuming that if it was a major policy issue, it would have been identified at the time he submitted his other amendments.

**Mr M. McGowan:** You have never moved an amendment on the same day! We just got some of yours to the bill yesterday. It makes a difference as to whether it was yesterday as opposed to today!

**The ACTING SPEAKER (Mr P.B. Watson):** Members! We have a lot of clauses here. Let us get into it, please.

**Mr T.R. BUSWELL:** The member for Gosnells made a very good point. The issues concerning licensing of property managers, in our view, are matters for the Real Estate and Business Agents Act 1978 and that framework. I think the points the member raised about the relationship between property managers and tenants may well be valid; I am not disputing that at all. I suspect that some property managers are perhaps overzealous from time to time in how they deal with their tenants. One thing we do through this bill, we talked about fines, and there are a number of fines for and requirements of property managers now as part of that relationship. I acknowledge the concern that the member raised about licensing, but there are a number of issues involved. I cannot recall them off the top of my head to be able to go through them now, but we certainly will as we go through the bill and the specific property manager requirements, with which fines are associated.

There is another important change. Historically, if I had had a problem with my property manager, I would write to Real Estate and Business Agents Supervisory Board, and I think its former chairman was Mr Cuomo, who may be known to some members opposite —

**Mr M. McGowan:** Known to you; he's your old buddy.

**Ms J.M. Freeman:** It was the Builders' Registration Board he was the chairman of.

**Mr T.R. BUSWELL:** It was REBA. I think when he lost to Bishop, the member's buddy, he suddenly became the chairman of all these boards.

**Mr W.J. Johnston:** He became state secretary of the Labor Party.

**Mr T.R. BUSWELL:** He is the one who sent it broke. He was on REBA for a while —

**Ms J.M. Freeman:** Builders' Registration Board.

**Mr T.R. BUSWELL:** — and on the Builders' Registration Board. Unfortunately, they were abolished, so he is not on that gravy train anymore, but anyway that is not that we are talking about. The important point —

**Ms J.M. Freeman:** Yes, let's talk about the point.

**Mr T.R. BUSWELL:** I do remember him, though. We used to have the uni ALP meetings —

**Ms J.M. Freeman:** Minister, just go to the point.

**Mr M. McGowan:** No, it's good; I want to hear it.

**Mr T.R. BUSWELL:** It is not done by REBA anymore; it comes straight through to the department.

**Mr C.J. Tallentire:** The training is provided by REIWA and it says that the five-day course with it is all you need.

**Mr T.R. BUSWELL:** "REBA" has ceased to exist.

**Mr C.J. Tallentire:** Oh, REBA.

**Mr T.R. BUSWELL:** Regarding REIWA, I do not dispute what the member is saying about the licensing issues. I think that that is beyond the gamut or the remit of this bill.

**Mr C.J. Tallentire** interjected.

**Mr T.R. BUSWELL:** Hop up again.

But the bill puts some requirements for what would be expected from property managers in that relationship. A large number of tenants never see the person who owns the property. Therefore, by extension, the property manager is their interface; they are a very important person in the link. I think we have identified this through the legislation, but it must be acknowledged that their licensing is done through the real estate agents licensing framework, because they have to have that licence. REBA is gone, and I do not say that REBA did not act on all complaints, but my personal view is that it is better that they are dealt with by the Consumer Protection Division. That potentially will be a more robust handling of complaints. People can make complaints, people have made complaints and people will continue to make complaints. When there are breaches in areas of this legislation now, we can rest assured that the Department of Commerce and the Consumer Protection Division —

**Ms J.M. Freeman:** Where do those complaints go? If the complaint is not upheld, do the complainants have an opportunity to go to the State Administrative Tribunal?

**Mr T.R. BUSWELL:** No.

**Ms J.M. Freeman:** So that's it? If the Consumer Protection Division says, "You've got no legitimacy to complain", that's it?

**Mr T.R. BUSWELL:** That is correct.

**Ms L.L. BAKER:** These questions were too detailed to be raised during the second reading debate. I would like to ask for some clarification with the term "property manager", the way it is specified in the bill, and what

happens in strata complexes. Although this bill acknowledges the fact that property managers need to have at least a five-day training course, I am aware that with the Strata Community Australia (WA) and the strata title process, there is no form of registration of strata title managers or people who work on strata title premises. I am not clear about what happens with strata title properties—I assume we have them in the public housing arena. Does that mean that there is a separate property manager who is trained on this five-day course and also a strata title manager, given that the strata title manager does not need to be trained? Can the minister explain that to me?

**Mr T.R. BUSWELL:** I know that there are a lot of issues with strata, but for the purposes of the relationship between the tenant and the owner, although those issues about strata may impact on the tenant via the owner's participation in the strata arrangement, the particular relationship between owner and tenant is really a separate matter to the issues with strata. There are issues with strata, but in this legislation we are really dealing with the relationship between the owner and the tenant.

**Ms L.L. Baker:** With your forbearance, I just want to get something clear, and it is probably just a personal matter that I do not understand this. With a public housing tenancy within a strata title complex, who is deemed to be the property manager in that instance? Is it someone separate to the strata title manager? Who is the person?

**Mr T.R. BUSWELL:** Let us say that the Department of Housing owned 10 units in a 20-unit strata development. We would have responsibility for the management of our tenants and that relationship, but the common grounds and the normal things a strata would look after would be dealt with in a relationship between the department and the strata management company.

**Ms L.L. Baker:** Okay.

**Mr T.R. BUSWELL:** Therefore, there are really three links in the chain. I understand some of the challenges with stratas that do not work.

**Ms L.L. BAKER:** In the definition of “reasonable grounds” that follows that of “property manager”, there are a series of events listed as (a), (b), (c) and (d). Again, for my clarification, and probably for that of *Hansard* and for those that follow, the definition states —

reasonable grounds, for suspecting that a tenant has abandoned residential premises, means that the tenant has failed to pay rent under the ... and that at least one of the following has occurred —

And then there are events (a), (b), (c) and (d). Only one of the listed events needs to occur. It has been my experience working in these areas for some years now that it is very common for people who are less stable but still have a public housing tenancy to absent themselves for a time—maybe to visit relatives or because of a death in the family. That would mean that there would be uncollected mail, newspapers and other material or it may mean event (d)—that there is a disconnection in services to the premises. However, that does not mean that the tenant necessarily wants to have their public housing tenancy ceased. The “reasonable grounds” definition is a bit nebulous. Although I understand that the department would need to have some flexibility in implementing this legislation, for the sake of tenants, this is another opportunity for this legislation in the area of public and social housing to push the balance against tenants and put more power in favour of a property manager.

**Mr T.R. BUSWELL:** I assume the member refers to issues broader than just social housing.

**Ms L.L. Baker:** I refer to public and social housing.

**Mr T.R. BUSWELL:** In relation to public housing —

**Ms L.L. Baker:** Both.

**Mr T.R. BUSWELL:** Yes, in relation to public housing, I can reflect on the department's point of view. If a person happens to go away for cultural reasons, as highlighted, or a death in the family or the illness of a relative, or they go on a long holiday, or other issues mean that the person cannot be at their house, and they keep paying rent, there is no problem with the tenancy being maintained.

**Ms L.L. Baker:** Therefore, it is the two events combined—the cessation of rent payments and one of those listed events.

**Mr T.R. BUSWELL:** Yes, and that is an important point to note. From the department's point of view, historically, non-payment of rent is probably the largest cause of eviction. It is an issue. Effectively, if tenants do not pay rent, they eventually lose their tenancy. I do not think that that argument is unreasonable. The causes for not paying rent might be a bit more complicated, but to be evicted, a couple of other things must happen as well.

**Ms J.M. FREEMAN:** I take the minister back to the interplay between a lessor and a property manager. I want two clarifications. First, I want clarity that the definition of “lessor” includes “owner”—I want that on record just to ensure that that is clear, because “lessor” is the new term that has replaced the term “owner”. As the minister knows, in my previous incarnation as an advocate in the workers' compensation jurisdiction —

**Mr T.R. Buswell:** I am very familiar with that, following the passage of the workers' compensation bill.

**Ms J.M. FREEMAN:** Yes. One of the difficulties often faced in that jurisdiction was when insurance companies took over almost all the legal capacities of employers, by the agreement that they reached in terms of managing their insurance. My question to the minister is: how do we ensure that property managers do not do that in the same way to lessors? A lessor could say, "I want to get something fixed or done in a certain way." The owner is happy to comply with that, but the property manager may say, "No, if you do that then we will be saying that we have some liability in terms of this and we don't want to have that liability in that area because we're having a fight with the state government about liabilities for footpaths", or whatever the context of those things are. I am speculating here: that relationship between property managers and lessors, how do we ensure that the owner of the property still has the right, in terms of the full management of the property, and not necessarily the property manager being able to override that right?

**Mr T.R. BUSWELL:** Firstly, "lessor" includes owner. Secondly, in relation to the relationship between property manager and owner, there are some codes of conduct and the like that sit around the behaviour and performance of property managers. That is administered under the Real Estate and Business Agents Act that we discussed earlier. In relation to the practicalities, almost what the member is asking is: can the property manager basically run the show and only be pushed to the side? That is how I interpret the member's question.

**Ms J.M. Freeman:** I am sure insurance companies would not say that is what they do.

**Mr T.R. BUSWELL:** It is a country approach!

In workers' compensation, as the member knows, sometimes what the insurance company wants and what business wants, in relation to employees, are two completely different things. I do not think it is the same here. We almost have a customer-supply relationship between the property manager and the owner. If a property manager is not providing good service to the owner, I suspect the arrangement would terminate pretty quickly. It is a very, very competitive area in real estate. For some real estate agents, especially in the current market, when transactional activity is flat, it is probably the main form of growth and/or income. I cannot see it will ever be a problem simply because if an owner is cheated off with his or her manager, they would get rid of them. I am not sure about the nature of the contract between the owner and the manager, other than they have to have a contract. I assume there are standard forms—Real Estate Institute of WA have standard forms for just about everything. There would be clauses in there whereby a person can get rid of a property manager if they are not happy with their performance: I understand the concern the member raises but I do not think it will ever be an issue.

**Clause put and passed.**

**Clause 6: Section 5 amended —**

**Ms J.M. FREEMAN:** I am using clause 6 as an indicator for clause 7 and subsequent clauses. I notice that in clause 6, proposed section 5(2)(c) will delete "as owner" and insert "as lessor", but I note that in many cases, as we go through the act, that has not occurred; in particular section 7(3)(c) and a few others that I have gone through. Frankly, I stopped after I noticed about three or four times that it had not been replaced. I am wondering whether that was with intent or a drafting error.

**Mr T.R. BUSWELL:** I have been advised that somewhere at the end of the bill—I will find out where—parliamentary counsel have put in a table. That is clause 89 on page 95. It effectively says "Various references to 'owner' amended" and it works through that. The advice from parliamentary counsel is that could not be done in all cases; in some cases it had to be done specifically through deletion in the act. Where it could be done, it has been done, let me call it in globo. That is the advice, and that is what we have done.

**Clause put and passed.**

**Clauses 7 to 21 put and passed.**

**Clause 22: Part IV Division 1A inserted —**

**Ms L.L. BAKER:** Proposed section 27A is the insertion the minister seeks to make. In the view of stakeholders I have spoken to, it is a very good section. A written residential tenancy agreement in a prescribed form should clarify a lot of murky dealings that might have been going on, which members might have heard about. One issue brought to our attention from the Tenants Advice Service is that it has received complaints from tenants in which the community-housing provider, or lessor, has requested tenants to sign backdated contracts. As the minister would be very aware, backdated contracts have a potential to see tenants liable for something that happened in the past and may also shorten the length of a tenancy. I would like the minister's comments on this. It might not be a frequent problem encountered, but it certainly is a problem. I am not seeking an amendment but I would like the minister's comment on the issue of backdating.

**Mr T.R. BUSWELL:** I think it would be fair to say that there may be the odd time when backdating is done. A person may be relocated for a whole —

**Ms L.L. Baker:** How do we protect people from things that happen?

**Mr T.R. BUSWELL:** Hang on; I will deal with that in a second.

Occasionally—I assume this would be very occasionally—it is just not practical to get a person to sign the tenancy agreement at the time they take occupation. It may be that an emergency situation arises and a person can be moved quickly; who knows? It may be that a place becomes available that they can move into and a tenant may need someone to provide them with assistance in reading the document. I am sure we can think of a few different examples. In that case, nobody would argue that backdating is for an inappropriate reason, but there are certain clauses in and around the Fair Trading Act around unconscionable conduct that should give people protection if they feel they are being required to sign a backdated lease; for example, when the lease extends to a period prior to when they went into the house.

**Ms L.L. Baker:** Does the minister think that is enough?

**Mr T.R. BUSWELL:** The very firm advice I have is that that is enough; I accept that.

**Ms L.L. BAKER:** I am still on clause 22, particularly the insertion of proposed section 27C(1), (2) and (3), and just about all of that really. This is an area in which I think it is particularly clear that unless we are extremely careful, this bill will put more in favour of the property owner, landlord or manager than it in fact puts on the tenant. Proposed section 27C(1) states in part —

... within 7 days after a tenant has entered into occupation of residential premises under a residential tenancy agreement —

- (a) prepare a report describing the condition of the premises; and
- (b) provide 2 copies of the report to the tenant.

Proposed section 27C(4) states in part —

A lessor must, as soon as practicable after the termination of a tenancy —

- (a) conduct an inspection ...

The seven-day clause seems to favour the landlord more when it comes to what has to be completed by the tenant. There is a bit of an imbalance when a lease is terminated and a property inspection has to be done. At the front end, when someone moves in, it must be done within seven days.

**Mr T.R. Buswell:** Not at the moment.

**Ms L.L. BAKER:** That part is fine. But when the tenant moves out there is no requirement for the person to be provided with a copy of the report, yet the inspection must be done within seven days. Like many members in the house, I have been through this on a personal basis. If the inspection is conducted and the tenants are not immediately notified of an issue, the tenant could come back a month later and say, “I did not actually do any of that damage, it happened while the property was vacant.” There is rather poor weighting in some of these clauses. Equal responsibility is not given to the landlord to allow the tenant a seven-day maximum or minimum to get back under these provisions.

**Mr T.R. BUSWELL:** I think the member has raised a reasonably valid point. So that I get it right: is the member saying that at the start, people get seven days in which to provide the report?

**Ms L.L. Baker:** Correct.

**Mr T.R. BUSWELL:** At the end, it is “as soon as practicable”, which is not seven days.

**Ms J.M. Freeman:** By way of interjection, if it is expected to be within seven days at one end, does the minister believe that “as soon as practicable” should be seven days at the other end?

**Mr T.R. BUSWELL:** I am sure there is a mechanism to enable us to deal with this through the house. I am happy to get more advice from the minister. I think the member makes a valid point, but I would like to get a bit more advice before we discuss it further. I am sure we can come back and deal with that using the standing orders of the house if we want to. I will comment perhaps after lunch about that, because I am sure we will be going through to lunch on this bill.

**Ms J.M. Freeman:** I appreciate that.

**Mr T.R. BUSWELL:** I do not think what the member is saying is unreasonable, but we need to explore that a little bit further. This is the question I asked at the end: in a bond dispute, for example, the court can determine that the bond be repaid within 14 days of the cessation of the lease. Sometimes these matters are quite fractious, especially if things have not always gone smoothly. I will get back to the member for Maylands on that issue; I do not have the advice here.

More broadly, we are introducing a provision under section 27C to make it mandatory to do the property inspection.

**Ms L.L. Baker:** That is good.

**Mr T.R. BUSWELL:** At the moment it is industry best practice, which is not always practised. Generally, people who do not practise best practice are the ones who probably should be practising best practice, if I can put it that way. I am happy to get more advice on the issue the member has raised and I will get back to her.

**Mr C.J. TALLENTIRE:** This clause adds proposed section 27C, “Property condition report at start and end of tenancy”. I am curious to know why we have missed an opportunity here, because a condition report will simply be about the current standard of the premises. Given there is a property rental market in which many people are desperate to find a property, I think some people take a lease without looking at the standard of the property. We are missing an opportunity here to make sure the property condition report adheres to what minimum standards should be presented in a dwelling to be let. I am curious to know why we are missing that opportunity. The minister is as familiar as I am with the residential building mandatory disclosure provisions to come into Western Australia. Why have we not inserted something in the bill to make sure people adhere to minimum standards in the quality of property to be let?

**Mr T.R. BUSWELL:** The advice I have is that we are talking here about a prescribed agreement. Proposed section 27A is headed “Written residential tenancy agreement to be in prescribed form.” I am advised that the regulations that prescribe that form will include mandatory disclosure. Section 42 of the act deals with the state and the repair of the premises when the tenant moves in, and the requirements generally on a landlord. But the issue the member is talking about is the disclosure of energy efficiency, which obviously will impact on the cost of maintaining a household. I understand that will be picked up through proposed section 27A as one of the requirements of the prescribed form.

**Clause put and passed.**

**Clauses 23 and 24 put and passed.**

**Clause 25: Section 29 amended —**

**Mr T.R. BUSWELL:** I move —

Page 20, line 34 — To delete “payment; and” and substitute —  
payment.

**Mr M. McGOWAN:** I am keen to speak to clause 25 but presently the amendment is before the house. Can I speak more broadly to the clause?

**The ACTING SPEAKER (Mr J.M. Francis):** I will give you some leeway, member for Rockingham.

**Mr M. McGOWAN:** Thank you, Mr Acting Speaker. I am sorry I have not followed the —

**Mr T.R. Buswell:** Can I ask a favour? Can we just deal with those amendments quickly? They are just technical amendments. We can then deal with the broader issues.

**Amendment put and passed.**

**Mr T.R. BUSWELL:** I move my second amendment to clause 25 —

Page 21, lines 2 to 5 — To delete the lines and substitute —  
(b) delete paragraph (d);

**Amendment put and passed.**

**Mr M. McGOWAN:** My question on clause 25 relates to penalties. I am not sure whether this issue has been raised; I missed the last 20 minutes or so.

**Mr T.R. Buswell:** No, it hasn't.

**Mr M. McGOWAN:** I refer to line 8 on page 21 of the bill where it states that the penalty is a fine of \$20 000. I assume that is a maximum fine. Further down, there is another penalty of \$5 000 for landlords. The bill is changing all the penalties. I think it is a considerable stiffening of the penalties for landlords for breaches that could be said to be quite technical; they relate to bond administration and so forth. I raised this issue of penalties in the second reading debate in relation to a letter I had received from the Property Owners' Association of WA, and particularly from Mr Wilde. It would be fair to say that he was wild about the whole issue of penalties. I think he was very genuine in his concerns. He represents a group of landlords who own residential properties. As we know, it is not uncommon for Western Australians to own a second property. Indeed, I suspect that most members of this house own a second property. People in suburbia, and in towns and communities throughout Western Australia, own a second property. Mr Wilde's concern was that the penalties were being significantly stiffened in an unreasonable way. He wanted to know why: what was the methodology behind stiffening and increasing the penalties for what are often relatively minor breaches of the legislation? I do not think that it was

an unreasonable request to ask those questions. I will ask it in relation to this clause—I could probably ask it on every clause if I wanted to, but I will stick with this one. Why is there a penalty of \$20 000 for what appears to be a relatively minor infraction of the act that does not require any malicious intent or defrauding of a tenant or anything of that nature? It looks to be just an infraction of the act, which could really be almost an oversight on the part of a landlord. I think the minister gets the general gist of my question. He might be able to provide some answers on the penalties in the rest of the bill as well.

**Mr T.R. BUSWELL:** I am happy to. I think the member will find that this is probably the only \$20 000 fine in the bill—there might be one other. This penalty relates to what is done with the bond. This penalty is specifically in place for people who do not do the right thing with a tenant's bond. It is not for a minor matter, in my view. Under this new framework, the bond has to be deposited with the Department of Commerce. I am aware of one case in which the owner of a large rent roll now resides in the Philippines. The money that people paid as bonds, or I suspect a little less of it, also resides in the Philippines. I think those people would say that a \$4 000 fine when paid across in—what is the currency in the Philippines?

**Mr I.C. Blayney:** Peso.

**Mr T.R. BUSWELL:** I thank the member for Geraldton; he is a renowned dealer in foreign currencies.

I do not think the people who lost that money would view a \$20 000 fine as being too steep.

**Mr M. McGowan:** What is the largest island in the Philippines?

**Mr T.R. BUSWELL:** Now, it is that big one.

**Mr M. McGowan:** Mindanao.

**Mr T.R. BUSWELL:** Is it Luzon?

**Mr M. McGowan:** Oh, no; it is Luzon. Mindanao is the second largest island.

**Mr T.R. BUSWELL:** The member for Rockingham has got us off track. I do not know whether it is Luzon. I only remember two—Mindanao and Luzon. Is that where the bases were?

**The ACTING SPEAKER (Mr J.M. Francis):** I am sorry, minister; I cannot help you with this debate. I would love to.

**Mr M. McGowan:** What is the capital of the Philippines?

**Mr T.R. BUSWELL:** The thriller was in Manila and the rumble was in the jungle! Anything else?

**Mr M. McGowan:** What was the name of the last Japanese soldier who emerged from the jungle in 1974?

**Mr T.R. BUSWELL:** I will have to take that one on notice. Arigatou gozaimasu; thank you!

I do not think the \$20 000 penalty is a big issue.

**Mr M. McGowan:** I think his name was Lieutenant Ondiki.

**Mr T.R. BUSWELL:** It could be.

**Mr P. Papalia:** It does ring a bell.

**Mr T.R. BUSWELL:** It does ring a bell to me. I will get my people onto that promptly.

**Ms J.M. Freeman:** By way of interjection, minister, it is a maximum as well.

**Mr T.R. BUSWELL:** Yes. I am very comfortable with it. I thank the member for Nollamara for dragging us back to the bill; it was about to become a battle of attrition in terms of general knowledge.

**Mr M. McGowan:** Which island was he on?

**Mr T.R. BUSWELL:** Not the big one. I must admit that my recounting of bizarre facts has diminished somewhat over time.

**Ms J.M. Freeman:** Just not the doing of bizarre acts!

**Mr T.R. BUSWELL:** We all have our moments.

**Ms R. Saffioti:** If it has diminished over time, I would hate to have seen you 20 years ago!

**Mr T.R. BUSWELL:** The member would have hated to see me 20 years ago. I tell you what; it would fill up a few pages! Anyway, we will move on. I was a misguided member of the uni ALP then with Mark Cuomo, who lost the pre-selection to the guy from the shoppies.

**Ms L.L. Baker:** You talk more about the ALP membership you held than anything else!

**Mr T.R. BUSWELL:** I used to sit up the back.

Several members interjected.

**Mr T.R. BUSWELL:** I can barely put up with this.

**Ms J.M. Freeman:** You know, minister, I was a member of the ALP in those days and I have no recollection of you whatsoever.

**Mr T.R. BUSWELL:** Uni ALP—Robert Edel.

**Ms J.M. Freeman:** Yes, I was there at the same time. You were so uninspiring and completely not on the radar that I have no recollection of you whatsoever!

**Mr T.R. BUSWELL:** Robert Edel and I were joint branch secretaries. Beat that! He has gone on to greatness at some legal firm somewhere. He was McGinty's chief of staff when he was opposition leader.

**Mr M. McGowan:** Who?

**Mr T.R. BUSWELL:** Robert Edel—and Mark Cuomo used to sit at the back of the room and go, “Tovarich; comrades” and stuff like that that I did not understand. The biggest debate we had was what we would rename the uni ALP broadsheet. I think in the end they came up with “In the Pink” or something like that.

**The ACTING SPEAKER:** Minister, sorry, but I am going to have to do this.

**Mr T.R. BUSWELL:** Who asked me about fines? Can the member stand up and ask me again? I am going to run out of time. I have a sheet here and I want to go through some details. It was a good question about the penalties. I will give some background so that we hopefully do not have to go through it again. There are 22 new penalties in the bill. Of those, 10 penalties —

**Ms J.M. FREEMAN:** I am actually interested in knowing about the penalties. I understand that the act was formed in 1987. The penalties probably have not been adjusted since that time. As I said during my contribution to the second reading debate, penalties are always a difficulty in this area. As we know, they are maximum penalties; therefore, they would be applied fairly by a magistrate. I am interested to hear from the minister.

**Mr T.R. BUSWELL:** That was a good point; the member for Nollamara is right. I am sure the magistrate would use her or his good judgement to determine those outcomes on a case-by-case basis depending on the severity of the circumstances and the nature of the breach. As I was saying, the bill contains 22 new penalties. Ten relate to provisions around residential tenancy databases and 12 relate to things like prescribed lease agreements, property condition reports, prohibitions on requiring tenants to sign a blank bond disposal form et cetera. The penalties have been increased. The last time they were increased was in 1995. What do we lift them to? That is a good question. The review process and the department determined this. We could probably look at other legislation in Western Australia that governs the relationship between a landlord, or lessor, and a lessee. One is the Residential Parks (Long-stay Tenants) Act. That is generally looking at the relationship in caravan parks between long-stay tenants and the caravan park owner. We all know about that because we have talked about it, and some of its shortcomings, a bit. My understanding is that the penalties in this legislation have been benchmarked against the penalties in that act. Therefore, I believe there is a rationale for it. It would seem odd to have an arrangement under which the penalty that applies to the relationship between a caravan park owner and a long-stay resident in the park is different from the penalty that applies to someone in a house and their tenancy. I am pretty comfortable with where that has landed.

**Clause, as amended, put and passed.**

**Clause 26 put and passed.**

**Clause 27: Section 30 amended —**

**Mr C.J. TALLENTIRE:** Clauses 27 and 28 relate to the issue of rental increases and variation in rental amounts, and the process by which the calculations would be made to determine what increase could be imposed on a tenant. I think the minister will have received submissions from the Tenants Advice Service on this matter. The obvious thing to say is that rental increases should be constrained in some way and that the logical way of constraining those increases would be in relation to the consumer price index. I am curious to know why there is no reference to that in either clause 27 or clause 28. By way of supporting information for the minister, I point out that in other states and territories there are such references to the CPI. One good example comes from the Australian Capital Territory and its Residential Tenancies Act 1997, under which some latitude is allowed. The CPI increases are used as the baseline, but if someone wants to go a bit further, latitude is allowed to the amount of 20 per cent. Beyond that, there is the opportunity for a tenant to take things to a tribunal for review. I think we need some clarification. I have mentioned this a few times in the course of this debate: clearly, we have a property rental market that is becoming very heated. There is, of course, an inclination for landholders to want to maximise the return on their properties, and they see that pushing up the rental is a way of doing that. However, when we look at the financial advantages given to landlords, we see that they receive amazing benefits in the negative gearing potential and the capital appreciation that they receive on properties. Those are the areas where they really make their money. I believe that very few landlords would be in the role of landlord purely for the

revenues derived from the rent. In fact, in most cases it is because of the negative gearing scenario whereby they are happy to take a rent that is less than their outgoing expenses on their mortgage, maintenance and other costs associated with owning the property. We need to clarify what is going on when it comes to the provisions relating to rental increases.

**Mr T.R. BUSWELL:** I respect the right of the member for Gosnells to hold that view. It is not the government's view. Our view is that rents are set in the market. I will talk about that a bit in a second. I need to point out one thing, though, in this bill, and that is that a little later in the bill, in clause 30, we propose some changes to section 32 of the act. Section 32 deals with the reasons for which a person can go to court to pursue issues around excessive rent increases. At the moment, as I understand it —

**Ms J.M. Freeman:** To go to court before that, you have to go to the Magistrates Court, and the Small Claims Tribunal, is it? So what sorts of costs are involved?

**Mr T.R. BUSWELL:** It is \$21.60.

**Ms J.M. Freeman:** For an application. So you would not be in a situation in which it is almost cost-prohibitive to be able to pursue something like that.

**Mr T.R. BUSWELL:** I am not trying to say that \$21.60 for someone is not a lot of money, but I think it is pretty reasonable.

Section 32(2)(a) of the act currently has a couple of qualifiers regarding why a person can go to court. They are being removed, so it makes that a little easier. However, there is a broader policy position. Our view, and certainly a view that came through in the review process, is that the policy position is that it is not the role of government to set rents and it is not the role of government to set the price of houses. Rents are set in the market. I appreciate that the ACT has done something different. That is not our policy position. I do not think it is the policy position of the Labor Party, although it may well be.

**Mr M. McGowan:** What is that?

**Mr T.R. BUSWELL:** To cap rents. It is a very difficult area.

**Mr M. McGowan:** It has been tried before.

**Mr T.R. BUSWELL:** Yes. It seriously does not work.

**Ms J.M. Freeman:** What—it doesn't work in the ACT?

**Mr T.R. BUSWELL:** I do not think it is going to work, and our policy position is that it will not work. There is absolutely no way that we would consider capping rents using, for example, measures such as the CPI. People invest in properties to generate a return. The returns—let us take out tax treatment, because everyone's tax position is different—come from depreciation, capital growth and rent, less expenses. If a person maps residential returns in Western Australia—I cannot remember the exact figure—there is a sort of historic level that they bounce around at. What happens, unfortunately, is that there is capital growth, which happened between 2004 and 2006, and inevitably there is rent growth. We are seeing that, I suppose, now, and we have seen it perhaps over the last couple of years. We are not going to say to people in the market that we will put a limit on the rate of return on their property, because what will happen, in my view, is that people's investment dollars will move out of residential property into other areas. The member may have a completely different view, and I am not being disrespectful of that, but this is my view and this is the government's view. So there will be no cap on rents. There is a process by which people can go to court if they think that the rent increase is excessive. However, we are not going to interfere with the market outcomes on rent, in the same way that we are not going to interfere with the market outcomes on house prices directly, although there are some broader policy areas that the government can get active in to help, and that is really with land supply and a range of other broader affordability issues.

**Ms J.M. Freeman:** If you do it by land supply, you undermine the most important aspect of your rented property, which is appreciation, because income from your rentals is offset by the fact that you can negative gear it. If you bring in more property, you undermine one of the most fundamental economic benefits of having rental properties—that is, the appreciation—whereas if you put a cap on it, you can actually look at the affordable housing aspect of it.

**Mr T.R. BUSWELL:** I do not agree with the member. If we accept what happened in Perth between 2004 and 2006 and what has historically happened, we have to be active in making sure we can keep the land supply loosely matched to the demand.

**Mr C.J. TALLENTIRE:** I thank the minister for that explanation. However, he has really pointed out a gross inconsistency, because under the Residential Parks (Long-stay Tenants) Act, which we have discussed at length in this place, there is a linkage to CPI. Therefore, the minister's argument that we have a government policy that we do not link rentals to CPI does not stack up. The minister has already pointed out in the course of this debate

that the idea for penalties is that they have to be consistent from one act to the other, so why would this be any different?

**Mr T.R. BUSWELL:** One of the reasons we are losing caravan parks is that people are not getting the rate of return on them, so we are now faced with the conundrum of trying to find a caravan park in, for example, the member for West Swan's electorate. It is a slow process.

**Ms R. Saffioti:** How is that going?

**Mr T.R. BUSWELL:** Slowly, to be frank. Housing is still working with the Department of Planning. That is as an aside; I will go back to the issue. It is looking at this lifestyle village stuff as well. One of the reasons people are getting out of caravan parks is exactly as I highlighted—that it is not economical. Brian Morris, who ran Green Acres caravan park in Dunsborough, said to me, "Troy, I do not want to sell my caravan park." Green Acres is gone. It was on the beach; brilliant. He loved it—driving around, yapping to everybody. Brian could chew the leg off a chair; a great bloke. He said, "I can take the money I am going to get paid for my caravan park, put it in the bank, live on part of the interest and let a bit more of the interest offset inflation, and I am killing the pig." That is what is happening in caravan parks. It is exactly the issue I am talking about. I have a very strong view about this. We will not be capping rents and interfering in the market process.

**Mr C.J. Tallentire:** But you are in another piece of —

**Mr T.R. BUSWELL:** Yes, and look at the outcomes. Soon caravan park regulation —

**Ms J.M. Freeman:** No, the outcome is only because there is an appreciation in the land. What you were talking about previously was you were happy to undermine appreciation of land values.

**Mr T.R. BUSWELL:** The member is right, but ultimately someone has to buy the land. If the price of land goes up, and someone buys it and the return is capped, people will put their money somewhere else. There is no doubt in my mind that the outcomes of capping rent would be disastrous. Not only would it be disastrous around supply, because capital will move, but a whole lot of other issues would arise around maintenance and all of the other things around rental properties. We are not doing that. There are a lot of other things we are doing, but capping rent is not one of them. I am happy to keep talking about it. I respect the member's right to hold that view, but it is most definitely not our view.

**Ms J.M. FREEMAN:** I just want to ask whether the minister has taken Treasury advice on this. My understanding is that about three or four years ago Treasury's advice in a minimum wage case in Western Australia was that the amount of rent that could be received from rental income and properties was always going to be significantly less than the costs of the property investment.

**Mr T.R. Buswell:** Can you just state that for me again?

**Ms J.M. FREEMAN:** Treasury's advice on rentals was that, to actually meet the costs of the property—because of the loans and the interest rates—and to be able to make any considerable income out of rents, it would mean that rental had to increase, I think, threefold. Treasury was talking about a massive increase in rental. It was in answer to a question by the commission as to whether Treasury believed rents would increase any more. The answer was that rents are not considered in increases about property costs. What property owners consider, in terms of rents and having properties that they rent, is the appreciation of their properties, and that rents are set based on other factors—basically what it is being gained out in the market. If some sort of market limit is put on that, it would have an impact on affordable housing in a manner that does not disadvantage property owners, because property owners are already advantaged by appreciation and negative gearing.

**Mr A.J. Waddell** interjected.

**Ms J.M. FREEMAN:** At the present time. But over the long term, appreciation. If we look at the long-term average of appreciation of property, that is why people do it.

**Mr A.J. Waddell:** Negative gearing is about making a loss.

**Ms J.M. FREEMAN:** It is about making a loss in the short term, but in the long term, it is appreciation. Anyway, I am not going to have an argument with my colleague to decide. In terms of the review, did the minister talk to Treasury about the impacts of that, because I think that for some reason we get caught up in the idea that this is some sort of holy grail that we should never go near. We have to have a proper and considered debate that does not say that the market is the best thing to dictate these things. If we want affordable rentals, that may be a way of doing it. Flooding the market with other properties is actually going to undermine the provision of rentals in our community. That is a way of looking at it in a manner that is economically and socially responsible in delivering affordable rentals in our community.

**Mr T.R. BUSWELL:** I am going to make one more comment on this, because I sense that if I were to throw a blanket over the different members of the Labor caucus, I would probably see why it has factions. I am not insinuating that all the missos are on the left —

Several members interjected.

**Mr T.R. BUSWELL:** I love Labor factions.

Several members interjected.

**Mr T.R. BUSWELL:** We have personality cults in the Liberal Party, not factions. We gather behind inspirational leaders.

**Ms J.M. Freeman:** Minister, just stay on the point. Was there any economic analysis of it or was it just simply dismissed? That was my question.

**Mr T.R. BUSWELL:** Technically, Treasury commented on this. There is no way under the sun that Treasury would have advised a rent cap in Western Australia. It would not have happened. Government does not flood the market with houses. We do our bit. Private people make decisions to invest in houses. Where we have a policy role around affordability is to make sure that, when there are surges in demand for property or surges in demand for new construction in particular, there is land available. Whether that is through 2031 or opening up new land, I do not care. We do not have a policy role in setting rents. That is for individuals to determine. I do not accept the argument that the thousands of Western Australians who own properties do not care about the rent. I have had investment properties—they are a little bit light on now.

**Ms R. Saffioti:** About 50 per cent lighter!

**Mr T.R. BUSWELL:** It is part of life's journey. I have had them. Do you know what? I actually like getting the rent cheque, because it helped do a whole lot of other stuff over and above maintaining the property.

**Mr C.J. Tallentire:** Did the rent cheque pay for the mortgage?

**Mr T.R. BUSWELL:** I do not necessarily think I need to be divulging my exact personal status.

**Ms J.M. Freeman:** Why use it as an example if you are not going to divulge it?

**Mr T.R. BUSWELL:** What I am trying to say is that people who invest in property like the rent. One of the reasons people buy an investment property is so that they can rent it to somebody. The tenant pays rent to the owner, who then uses that for stuff. Part of that stuff is paying the costs. Some of it is kept by the owners. The bit that is kept is the rate of return on the investment. There is also a capital appreciation. It is what happens. With shares, people get a dividend and they get some capital growth; they get some devaluing from time to time. If people invest in a government bond or stick their money in the bank, they get a rate of return. The rate of return is important, member for Nollamara. It is perhaps not important to everybody.

**Ms J.M. Freeman:** But your rate of return is your appreciation. That is what you are overlooking.

**Mr T.R. BUSWELL:** I am not getting up again on this issue, because I seriously think on a policy spectrum here, this is not something we are going to do. I can also tell the member for Nollamara that the state Labor Party would never put this forward as a policy direction—not in a pink fit is it going to happen. We are getting to that part of the bill at which we start having these peripheral arguments about stuff that is never going to happen in WA. I do not think they are ever going to happen. Whether it is the existing Leader of the Opposition or any of the people who may potentially replace him in due course after the next election, I cannot see that changing. I just do not think it is going to change.

**Ms L.L. BAKER:** Minister, I ask for some detail. Because this is such a fraught area about such vulnerable people, I would like to ask an explanation. This is again an issue that I genuinely do not know how long these things take. The minister referred to when a tenant wants to complain that a rent increase is astronomical, as indeed we saw during the last boom. I was at the Western Australian Council of Social Service then, and tenants were coming to us and telling us that the landlord had increased their rent by 200 per cent or 300 per cent in one three-month period. These increases were happening every six months during that time frame. The minister has referred me to a couple of other ways that a tenant might choose to complain about this or put something forward. Can the minister explain to me how long it is likely to take a tenant to lodge a complaint with the Small Claims Tribunal and have a decision taken? Depending on that answer, what would the tenant do; would they stay in the house until such time as a decision was taken? By that time, both the landlord and tenant would probably be pretty cranky because neither would have an answer. Can the minister explain that? It sounds a bit the same as when he said that it is dreadful to leave someone in a tenancy for 60 days if they have been given a warning because they might trash the house. It sounds as though it has the potential to do the same thing if we are not careful. Can the minister enlighten me on how long that is likely to take; that is, whether he has done some risk assessment of it?

**Mr T.R. BUSWELL:** I will deal with that issue first, because then I want to deal with that part of clause 27 that relates to section 30 of the act. If the rent gets put up and the tenant is of the view that it is unfair and they want to have that matter dealt with, they can lodge a complaint straightaway, pay \$21.60 and get it done. The advice I

have received is that, through the Magistrates Court sitting, I assume, as the Small Claims Tribunal, it will be two to three weeks.

**Ms L.L. Baker:** That's good.

**Mr T.R. BUSWELL:** That is what I think. It will be two to three weeks roughly speaking, with the capacity for any order to be backdated. I assume that if a tenant's rent goes up, it is done. The tenant might not pay it as a protest, but inevitably it will be dealt with by the court pretty promptly one way or the other. It can be backdated.

With our wonderful policy wanderings around rent fixing, we got a bit caught up with a couple of other aspects of clause 27 and what section 30 of the act does. Clause 27 seeks to insert in section 30(2) the words —

the amount of the increase, or the method of calculating the amount of the increase, is set out in the agreement ...

That is for fixed-term agreements. A lot of the agreements are fixed-term agreements. This provision is effectively saying that when a tenant signs an agreement, either the amount of the increase or the method for determining the method of the increase is to be established in that agreement.

**Ms L.L. Baker:** Is that for the period of that tenancy?

**Ms J.M. Freeman:** For 12 months.

**Mr T.R. BUSWELL:** It depends on the length of the fixed-term tenancy. Some tenancies might be for six months; some might be for two years.

**Ms J.M. Freeman:** Usually, the maximum period of most fixed-term tenancies is 12 months; isn't that the case?

**Mr T.R. BUSWELL:** No. I know people who have 18-month tenancies. I know people who have six and seven-month tenancies. I think it really depends on the circumstances of the property. From a tenant's point of view, there are advantages around rent to taking a longer term fixed tenancy. However, there are disadvantages around changing circumstances—that is, if a tenant wants to nick off, they are stuck with an agreement. I think this perhaps highlights some of the balancing issues that we have talked about previously.

**Clause put and passed.**

**Clause 28: Sections 31A and 31B inserted —**

**Ms J.M. FREEMAN:** Just briefly, clause 28 seeks to insert proposed section 31A. I probably should know this, but is this for social housing or for general housing, or have I just read it wrongly?

**Mr T.R. Buswell:** It is for both.

**Ms J.M. FREEMAN:** Can the minister give me an explanation behind it?

**Mr T.R. BUSWELL:** An example may be someone who has employment-related housing. The person is provided with a house and a percentage of their income is the rent.

**Ms J.M. Freeman:** It's for social housing. Is that for social housing so that you can amend rents that you have not previously been able to amend?

**Mr T.R. BUSWELL:** No; it has always been possible. It is not about that; it is about making it clear that it can be every six months and that 60 days' notice must be given.

**Clause put and passed.**

**Clauses 29 to 31 put and passed.**

**Clause 32: Section 34A inserted —**

**Ms L.L. BAKER:** Clause 32 raises a number of issues for me. It is about the manner of paying rent. People who make regular payments may have left in the bank what they think is the right amount of money to cover their regular payment, but then something goes horribly awry and they end up with \$5 less than there was meant to be and the bank sends them a text message saying, "We've charged you \$15 because you've overdrawn your account and we can't make this payment." The extra bit of money is then refunded so that they can make the payment, but then they realise it is the payment plus \$15, so they still do not have enough money in the account to pay the rent. This happens to people quite frequently, and very frequently to vulnerable people on low incomes as they struggle to balance their very tight budgets. Clause 32 seeks to insert proposed section 34A, which provides that tenants may pay their rent in the form of cash or a cheque or by agreement with the lessor. Currently, some forms of rent payments required by lessors result in fees and charges being incurred by the tenants, effectively increasing the cost of renting. In some cases that can be significant for people on low incomes. I am aware that members have received calls about tenants who have breached their tenancy agreement and have rent arrears when the fee or charge was not met—that is, the overdrawn fee or charge for not making the payment.

**Mr T.R. Buswell:** The fee or charge that the lessor incurs when a dishonoured cheque is presented?

**Ms L.L. BAKER:** Yes; that is correct. That charge has not been met and that is when they have lost the tenancy. That is an action that is currently not permissible under the act. The opinion I have been given is that the New South Wales Residential Tenancies Act provides a guide on rental payments. It states that a landlord or a landlord's agent must permit a tenant to pay the rent by at least one means for which the tenant does not incur a cost other than the normal bank fee usually payable for the tenant's transaction, and that this be reasonably available to the tenant. In short, after a long explanation, why can this bill not reflect a similar provision so that lessors provide tenants with at least an option of rent payment that has no cost to the tenant. I am sorry; it was a bit complicated, but I thought I should explain it in some detail.

**Mr T.R. BUSWELL:** That was a good question. Basically, the act provides that the tenancy agreement is to stipulate the form of payment. Proposed section 34A will basically provide that the manner of payment will be cash or a cheque, or anything else that is generally to do with electronic stuff. The member is saying that that does not prevent the tenant from being required to be in an arrangement whereby they may incur fees if they get in an awkward situation.

**Ms L.L. Baker:** That's correct.

**Mr T.R. BUSWELL:** I suppose my question is: what mechanism would protect them from getting in that circumstance?

**Ms L.L. Baker:** It clearly is available because the New South Wales Residential Tenancies Act 2010 provides that advice that there are alternatives.

**Mr T.R. BUSWELL:** I am trying to think it through. Let us leave the credit card aside; I do not think that is a good way to pay rent, but some people may do it that way. If people pay by direct deposit, they would not be able to move the money. So, it is really only a cheque. I reckon about the only way that this would happen—I am no expert on financial transactions—is if I wrote a cheque and gave it to my landlord and my landlord put it in the bank and it was dishonoured, because I would get charged a dishonour fee.

**Ms L.L. Baker:** Then you lose your tenancy.

**Mr T.R. BUSWELL:** This would arise only when the tenancy agreement requires the payment to be made by cheque.

**Ms L.L. Baker:** I believe you. That sounds logical.

**Mr R.F. Johnson** interjected.

**Mr T.R. BUSWELL:** Someone could give it a go. I am finding this a bit awkward to get my head around, but if the tenant does not want to pay by cheque, ultimately they do not have to sign up to the lease agreement.

Debate adjourned, pursuant to standing orders.

#### **ACTIV BUSINESS SERVICES — ALBANY**

##### *Statement by Member for Albany*

**MR P.B. WATSON (Albany)** [12.51 pm]: I would like to inform the house of the fantastic work being done by manager Bob Burdon and his staff at Activ Business Services in Albany. Activ provides work for people with disabilities by focusing on what they can do and keeping them actively involved in work. Activ is developing a great reputation for what it has achieved so far. Activ is working with local business and others to develop new products that it can manufacture and supply direct to them. The business employs 51 people at its new premises in Minna Street where it has brought its manufacturing and packaging divisions together under the one roof. Activ manufactures export-grade, quality-assured wooden pallets for businesses; a range of garden lattice panelling to sell direct to retail customers; tree guards; and bags of kindling. On the packaging side, the business removes unwanted labels on wine bottles for local wineries, and packages marron and yabbie nets for retailers, baby blankets for Albany Regional Hospital and other hospitals in the Great Southern, and animal mortuary shrouds for a local vet. On her recent visit to Albany—I must thank Tony Crook the member for O'Connor for inviting her—Prime Minister Gillard toured the Activ premises and met with the workers. She was impressed with the enthusiasm that the workers had for the jobs they were doing and the quality of the products and packaging being produced. Congratulations to Bob Burdon and his team for the opportunities for work that they are giving to people with disabilities in Albany.

#### **STEPUP4KIDS FITNESS PROGRAM**

##### *Statement by Member for Carine*

**MR A. KRSTICEVIC (Carine)** [12.52 pm]: As the member for Carine, I wish to give members of Parliament insight into an inspiring community-school partnership program within my electorate called StepUp4Kids. StepUp4Kids is a whole-of-community fitness program that started with a couple of parents competing in the

City to Surf and wanting to find a way to encourage their children to also compete. The founders—mums Lynley Papineau and Antonette Fazzari, alongside Catherine Kolomyjec from not-for-profit organisation Soul Gestures—began the program at Our Lady of Grace Primary School in North Beach. This year they completed a trial at Sacred Heart College, the first high school at which it has been run. The interest in the program is now so great that StepUp4Kids aims to introduce the program to primary and high schools throughout Western Australia. The program has found a way for even the least sporty children to get fit in a time when childhood obesity is becoming epidemic. It is non-competitive and fun and brings parents off the sidelines to enjoy time with their kids. The StepUp4Kids program is simple; students cover the distance of a short marathon in the weeks leading up to the City to Surf and walk the oval once a week as a school community. Community role models and family members walk with students to motivate and inspire them. Student leaders organise and encourage the younger students. I have personally attended both schools and participated in the program. These two StepUp4Kids schools had almost 400 students compete in the City to Surf on Sunday. Our Lady of Grace had the largest school team with 265 participants. StepUp4Kids continues to inspire health innovation with a PrepStep program for preprimary students, StepUp4Study to keep year 12 students fit, and a StepUp nutrition program. With the children as the role models for health in our local community, inspiring all of us to get fit, the healthy future of our community is assured.

#### **“DUTY TO RESCUE” LAW**

*Statement by Member for Balcatta*

**MR J.C. KOBELKE (Balcatta)** [12.54 pm]: I rise to support the call of a constituent, Melissa Kelly, for the introduction of a “Duty to Rescue” or “Good Samaritan” law in Western Australia. Mrs Kelly has been motivated by the death of Mr Grant Jesser in Kalgoorlie and other cases, including her own direct knowledge of when someone was left to die and not rendered assistance.

Grant Jesser was attacked and left in a laneway in Kalgoorlie. While lying injured and bleeding, he was robbed by people passing by, who did not report his situation to police or ambulance. If Grant had received assistance, he would not have died. His assailant received a prison sentence of four and a half years. The thieves received a suspended sentence for theft and walked free from court. If Western Australia had a “Duty to Rescue” law, they could have been held responsible for not reporting the situation or providing direct assistance. A single phone call would have saved the life of Grant Jesser, but these people did not feel they were under any obligation to assist him. Some 20 European countries, 10 states of the United States and the province of Quebec in Canada have enacted “Duty to Rescue” or “Good Samaritan” laws. These examples could form the basis for WA to legislate requiring citizens to accept a responsibility to provide at least a minimum of assistance to someone in trouble.

Mrs Kelly has written to the Attorney General requesting him to direct the Law Reform Commission of Western Australia to prepare advice on a “Duty to Rescue” or “Good Samaritan” law for Western Australia. I commend Melissa Kelly for so vigorously pursuing this reform to our laws and urge the Attorney General to give such a reference to the Law Reform Commission.

#### **TASTE OF THE GASCOYNE 2011**

*Statement by Member for North West*

**MR V.A. CATANIA (North West)** [12.56 pm]: On 19 and 20 August, Taste of the Gascoyne 2011 was held. It has become an annual event that showcases Gascoyne produce, in particular Carnarvon produce. Given the floods that devastated Carnarvon late last year, it was a great opportunity to showcase what Carnarvon is made up of: fantastic horticultural produce, the fishing industry and the pastoral industry. Many people from across the state and from the eastern states came to enjoy what Carnarvon had to offer. It gave the town a much-needed boost through tourism, but also reinforced that Carnarvon is the food bowl of this state. I would like to congratulate the Shire of Carnarvon, Alex Harper, Justine Lawler, Paul Kelly from the Gascoyne Dash, and the royalties for regions program for making the event possible to ensure that we really showcased the Gascoyne, in particular Carnarvon, and gave it a much-needed boost—something that has been missing for a while.

#### **AGNES CRAWFORD PETTIGREW SMILLIE — CONDOLENCE**

*Statement by Member for Maylands*

**MS L.L. BAKER (Maylands)** [12.57 pm]: My 90-second statement is about Agnes Crawford Pettigrew Smillie, or “Nan”, who was born in Glasgow, Scotland in 1912. The eldest of five children, her mum was a weaver and her father a steel dresser. He was also chairman of the Scottish Trades Councils Independent Labour Party, so Nan grew up surrounded by firebrands and political heavyweights from the left wing of politics in Scotland of her time. This forged her total belief in socialism and its credo of a fair go and compassion for all.

In 1938 she married Hugh Smillie and in 1944 gave birth to their son James. In 1950 after a six-week journey, they arrived in Fremantle to start a new life. Nan and Hugh built a house at 59 Kirkham Hill Terrace, where she

would live for the next 60 years. In 1987 she moved all the way up to 23 Kirkham Hill Terrace, overlooking the Swan River, and continued her well-recognised strolls along Eighth Ave, with trolley and umbrella, chatting to all along her way. Nan remained an active member of the Maylands branch of the Labor Party for over 30 years and was presented with a life membership when she turned 90. She left us just a couple of weeks ago, 90-plus years young. She left the world with dignity and peace after a lifetime of passion and service to her family, to the WA Labor Party, to Maylands and to the community of Western Australia.

Nan, we join Jim and Caroline and your family in saying that we will miss you.

### COUNCILLOR MAUREEN GRIERSON — RETIREMENT

*Statement by Member for Wanneroo*

**MR P.T. MILES (Wanneroo)** [12.59 pm]: Today, I would like to recognise Mrs Maureen Grierson, who has served her community for almost 50 years. Maureen established the Scarborough Ratepayers and Residents Association; she was a justice of the peace for 25 years, a City of Stirling councillor for nine years and a City of Wanneroo councillor for eight years. Her 20 years of service to the State Emergency Service won her a national medal. She was on the Council of Official Visitors for mental health hostels for 17 years and a member of the Scarborough Pensioners Club for 20 years. She received life membership of the Australian Pensioners League and was nominated for WA Senior of the Year in 2001 and 2002, and Australian of the Year in 2010. Maureen has been a passionate supporter of Surf Life Saving Australia for 17 years, serving as vice-patron and honorary trustee. The Maureen Grierson Community Centre at Scarborough Beach is named in her honour. This incredible lady, who recently celebrated her eightieth birthday, has been a volunteer for everything from Blue Light discos to Clean Up Australia Day. I wish her well as she prepares to step down as a City of Wanneroo councillor and would like to put on record the thanks and gratitude of the community for her wonderful service.

*Sitting suspended from 1.00 to 2.00 pm*

### QUESTIONS WITHOUT NOTICE

RESOURCES SECTOR — LOCAL CONTENT — PREMIER'S PRESS CONFERENCE, 30 AUGUST

#### 529. **Mr E.S. RIPPER to the Premier:**

Last Tuesday at a press conference I am told the Premier instructed journalists, "Turn off your cameras, I know more about this than anyone. I'm going to give you an economics lecture about local content."

(1) Does the Premier deny that this is what he said; and, if so, what did he actually say?

Several members interjected.

**The SPEAKER:** Thank you, members!

**Mr E.S. RIPPER:** You should go and ask the journalists; ask them what happened. That is what they told us.

Several members interjected.

**The SPEAKER:** Thank you, members!

**Mr E.S. RIPPER:** Are you finished? Do you care about local content?

Several government members interjected.

**The SPEAKER:** I presume that some of you want to be able to answer questions today; it might be to your advantage if some of you want to answer questions today. I have given the call to the Leader of the Opposition and nobody else.

**Mr E.S. RIPPER:** I do not mind, Mr Speaker; it is excellent training for government!

Several government members interjected.

**The SPEAKER:** Just the question, Leader of the Opposition—just the question.

**Mr E.S. RIPPER:** Mr Speaker, I think that is wise advice.

(2) What lecture does the Premier have to give to those workers who have lost their jobs across Western Australia while workshops miss out on contracts for fabrication work?

(3) What exactly is the Premier doing to address youth unemployment in Kwinana, which has risen another 2.8 per cent on the Premier's watch to 20.6 per cent in July?

#### **Mr C.J. BARNETT replied:**

I thank the Leader of the Opposition for the question. Before I comment on it, I welcome the students from John XXIII College in my electorate and other students who are walking in.

(1)–(3) I remember at the end of a long press conference going into a little economic dissertation. I sometimes do that. It was primarily, I think, about when the mining industry was called the old economy and I was commenting on how now suddenly it is the mining industry that is apparently going to save Australia, so one moment it is out of favour and then it is in favour. I think that was the topic. Have you got your little spies running around my press conferences again? You did that in the election campaign; little people in overcoats and that sort of thing snuck up to press conferences.

Several members interjected.

**The SPEAKER:** Members!

**Mr C.J. BARNETT:** In the interests of open and accountable government, I extend an open invitation for someone from the Leader of the Opposition's office to come to my doorsteps as long as they wear something around their head identifying themselves as LOOP, so we know; so it is open and accountable.

Several members interjected.

**The SPEAKER:** Members!

**Mr C.J. BARNETT:** The point of local content and —

**Mr P.C. Tinley:** Answer the question!

**Mr C.J. BARNETT:** I am trying to.

**Mr P.C. Tinley:** Did you tell them to turn off their cameras?

**The SPEAKER:** There is some advice I can give in this place about listening to the answers given. I believe that the Leader of the Opposition has asked some questions to which he is getting answers. I encourage the Premier to continue with his answers to the Leader of the Opposition.

**Mr C.J. BARNETT:** A couple of months ago this government prepared and tabled a detailed report on local content, and we are prepared to do that on a fairly regular basis. The reality is that on mining projects, which are Western Australian-owned resources, levels of local content are 85 or 90 per cent. Indeed, Sam Walsh from Rio Tinto is in the business pages this morning saying that about 90 per cent local content was being achieved on Rio projects.

On offshore liquefied natural gas projects in commonwealth waters, local content had typically been 50 to 60 per cent; on some projects it slipped a little lower. It is interesting, though, that we have had very little support from the federal government of either political persuasion in achieving high levels of local content out of projects in commonwealth waters or, indeed, about gas reservation. The previous Premier, Alan Carpenter, did a good job in trying to take up that fight against the then Liberal government. That has been one thing where there has been some consistency in Western Australian politics. We do need to do that, but the Western Australian government has very limited leverage over offshore LNG projects. We do not own the natural resource and what little leverage we can get is trying to attach conditions to the use of onshore sites, whether they are on Barrow Island, the Burrup Peninsula and the like, but that is even weaker now that the industry is going down the path of floating LNG platforms. Although I support the Shell project on Prelude because it is a small resource gas field that would not otherwise be developed, if floating LNG platforms become the norm, there will be zero Australian or Western Australian content. I think members opposite should be talking to Martin Ferguson and their other friends in the federal Parliament and urging them to support both gas reservation and high levels of local content.

Several members interjected.

**The SPEAKER:** Thank you, members!

**Mr E.S. Ripper:** Did you tell them to turn off the cameras, by the way?

**Mr C.J. BARNETT:** Jokingly—I cannot even remember what the topic was—I think my words were to the effect, “If you’ll excuse me now, I’m going to indulge in a little economics lecture, so why don’t you turn off your cameras; don’t waste the film.” That was my comment. Big deal!

Several members interjected.

**Mr C.J. BARNETT:** And that is an issue! So that is the opposition's top issue for the day; did the media leave their cameras on or off?

Several members interjected.

**Mr C.J. BARNETT:** It is just unbelievably stupid of the opposition to think that is a significant issue! With due respect to my friends in the media, if they cannot get a joke, then lighten up, Manhattan! Get with the real world.

In a more serious response to this telling question that has been asked, last night I attended and spoke briefly at an event called Africa Down Under. About a dozen African mines' ministers were there. It is a function that has been going on for about nine years, and it was the first time I had been to it. It was very interesting and about

250 people were there. The relevance in terms of local content is that while there is this sort of wave of protectionism going through Labor and through parts of the manufacturing industry, just imagine what would happen if the rest of the world, for example, Africa, was to do the same. Members might be interested to know —

**Mr M. McGowan:** Transparency is protectionism.

**Mr C.J. BARNETT:** The member for Rockingham might be interested to know that there are —

**Mr M. McGowan:** Give me a lecture.

**Mr C.J. BARNETT:** Yes, you need it!

Several members interjected.

**Mr C.J. BARNETT:** There is no interest in the issue from members opposite, but there are, for members' information, 132 Western Australian mining companies involved in mineral exploration, mineral development and minerals mining services. They are involved today in 415 individual projects spread across 42 African nations, totalling literally hundreds of millions of dollars, even billions of dollars of work. One company, Ausdrill—a big, very successful Western Australian-based company—has 2 000 employees in Australia, the vast majority of whom are in Western Australia, and it has 2 400 employees in Africa. If we were to close the doors, we would cut off the opportunity for exploration mining and mineral services companies from this state to provide over 75 per cent of all of Australian mining investment activity in Africa. Part of the future of the Western Australian mining industry is in continuing its role as the dominant offshore player in the development of African natural resources. The Leader of the Opposition would close the door on that; that is his attitude. Too blinkered, too narrow.

#### RESOURCES SECTOR — LOCAL CONTENT — PREMIER'S PRESS CONFERENCE, 30 AUGUST

##### **530. Mr E.S. RIPPER to the Premier:**

I have a supplementary question. Noting the Premier's comment about the government providing its own local content reports, will he review his government's policy to keep secret the actual local content reports from the resources companies?

##### **Mr C.J. BARNETT replied:**

I could make them public, but what would the quality of those reports be? Very limited. The reason they are confidential is so that the companies are totally open with government, as they were during the Leader of the Opposition's time in government. From that, we are able to talk to them about individual tenders and contracts, and how it is being done. If we were to make that information public, it is absolutely certain that those companies, Australian and particularly international, would give limited information, and there would be limited ability to actually improve local content. There is high youth unemployment in Kwinana, and that is of great concern. I urge those young people to take up training. There are more training places in operation in Western Australia now than ever before in history, and maybe part of the issue is to get some of those young people to actually complete their secondary education and take up training opportunities. Do not blame local content as the reason for youth unemployment; I suspect it is a little more complex than that.

#### TOURISM — REGIONAL EVENTS

##### **531. Mr I.C. BLAYNEY to the Minister for Tourism:**

I read in the *Geraldton Guardian* last week claims by the shadow Minister for Tourism that there were not enough events in regional Western Australia to attract tourists. This concerned me, as I understand that a big investment has been made by the state government to boost regional events. Can the minister please inform the house about these events in regional Western Australia?

##### **Dr K.D. HAMES replied:**

I thank the member for the question. I have to say that, in my new role as Minister for Tourism, I have not had much cause to criticise the shadow Minister for Tourism on any issue, but I was surprised to hear the shadow minister make those comments about regional tourism. Congratulations to the member for Geraldton on the report in the paper about the Clipper Round the World Yacht Race; there was some excellent publicity for that. That is one of the things that we have sponsored through a significant increase in funding to Tourism WA. I remind members that we got an extra \$60 million over four years—\$15 million a year—from royalties for regions, which has allowed us to provide huge amounts of extra funding. The tourism events budget has doubled from about \$15 million under the previous government to about \$34 million per year now.

**Mrs M.H. Roberts:** It was \$15 million under the last minister!

**Dr K.D. HAMES:** Yes, but our last minister worked very hard to get this increase in funding; I was lucky enough to come along when it was nearly already there. But it has been fantastic; it has allowed us to fund a

huge number of things. In particular, we used to have a \$300 000 regional events package, which funded a large number of groups. That has now been doubled to \$600 000, and another batch of that funding will be coming up in the near future, of a further \$300 000. We will be adding that in this year and going out for expressions of interest for that. It has allowed us to fund 39 small events that get tourists out and involved in the community, and 20 of them are new events. We are also funding the improvement of a significant number of larger events. The Shinju Matsuri Festival in Broome has had its funding significantly increased. *Masterchef* winner Adam Liaw is going to that. We are also funding the Shinju Matsuri Ball, and have significantly increased funding for the Kimberley Ultramarathon. We have basketball going there at the end of this month, with Andrew Vlahov taking four teams, including the Shanghai Sharks and the Chinese basketball player whose name I cannot quite remember—the really tall guy! He is big; bigger than Luc Longley, even, and Luc is enormous! That will be in the next few weeks, in Broome.

The Kimberley is getting a particularly large number of events. I have to say that I am worried about the recent heritage listing of the Kimberley and what it will do for tourism there—whether or not it will make any difference. It may well make a difference; I am particularly talking about tourism infrastructure and some of the camps that have been recently built.

Several members interjected.

**The SPEAKER:** Member for Gosnells, I formally call you to order for the first time today.

**Dr K.D. HAMES:** Approval was recently granted for an eco-village on the Berkeley River. That sort of project, if it had to go through another layer of tourist assessment, would have extreme difficulties getting through the extra layer of bureaucracy required. Some other events include regional horseracing meetings, which will get significant extra funding; the Ord Valley Muster; the Australasian Safari; and, further down south, the Margaret River pro surfing event that had 10-time world champion Kelly Slater competing.

We are only just starting; we have heard over the last few days about the BHP–Billiton Aquatic Super Series, which is going to be absolutely fantastic.

**Mrs M.H. Roberts:** Is there anything for Geraldton?

**Dr K.D. HAMES:** There is something called the Clipper Round the World Yacht Race, which we just funded. In that list of 39 events, there are some things in the Geraldton–Greenough region; I cannot remember how many, but I think two or three.

**Mr R.H. Cook** interjected.

**Dr K.D. HAMES:** The shadow minister asked me a question; the member for Kwinana is not the shadow Minister for Tourism. If he wants to ask me a question on health, he should do it. The shadow Minister for Tourism asked me a specific question about Geraldton, and I am trying to answer it. Yes, there are events around the Geraldton. We have funded, through the Clipper Round the World Yacht Race, the purchase of a yacht.

Several members interjected.

**The SPEAKER:** Member for Perth, member for Midland, I do not want to hear from either of you again during this answer.

**Dr K.D. HAMES:** To conclude, there are other events that have been applied for, but \$600 000 has been allocated and that amount will be replicated every year. A further \$300 000 is about to be given to smaller events, and anyone from the Geraldton–Greenough region can put in an application and get funding for other events in that region. It is a fantastic opportunity; \$60 million that will enable people to go out and have events within their region.

ROLEYSTONE–KELMSCOTT BUSHFIRES —  
KEELTY REPORT — MINISTER FOR EMERGENCY SERVICES

**532. Mr E.S. RIPPER to the Minister for Emergency Services:**

- (1) Why, when asked yesterday in the other house about the implementation of Keelty report recommendations, did the minister refer the questions to the Premier?
- (2) What role, if any, will the Minister for Emergency Services actually play in the Fire and Emergency Services Authority reform process?

**Mr R.F. JOHNSON replied:**

I thank the Leader of the Opposition for the question.

- (1)–(2) I think the first three questions were referred to the Premier because they come under the Premier's authority. I do not have the questions in front of me; the Leader of the Opposition probably has, so if he wants to share them with us, he will see why.

**Mr E.S. Ripper:** You can't remember what you answered?

**Mr R.F. JOHNSON:** I can. I remember that I answered that the first three questions were not questions that should have been directed to me.

**Mr E.S. Ripper:** No, they were direct questions about the detail of the implementation process and you couldn't answer them.

**Mr R.F. JOHNSON:** The Leader of the Opposition must be really hard up; I saw his Twitter this morning in which he pleaded with people outside this chamber to give him some questions today.

**Mr E.S. Ripper:** That's democracy! That's consultation by Twitter!

**Mr R.F. JOHNSON:** I was staggered! That is what the Leader of the Opposition does.

**Mr E.S. Ripper:** You're not one of my followers, are you? That's horrifying!

**Mr R.F. JOHNSON:** No, I am one of the observers. I like to see what the Leader of the Opposition is twittering about. This morning he sent out a plea to anybody who could come up with some questions that he could ask in this Parliament today. How pathetic!

**Mr E.S. Ripper:** It's called "democracy"!

**Mr R.H. Cook:** That was the first question.

**Mr R.F. JOHNSON:** It must have been.

**Mr E.S. Ripper:** You should see the replies!

**Mr R.F. JOHNSON:** We do not always see the replies.

*Point of Order*

**Mr M. McGOWAN:** Point of order, Mr Speaker.

**Mr R.F. Johnson:** Now he is getting worried!

**Mr M. McGOWAN:** I refer to standing order 78, Mr Speaker. The minister was asked about implementing FESA reforms following a bushfire that burnt down 71 houses and now he has segued into Twitter.

**Mr R.F. Johnson:** He's the biggest twitterer going!

**Mr M. McGOWAN:** I ask that the minister be brought back to answer the question he was asked.

**The SPEAKER:** I am going to give the Minister for Emergency Services an opportunity to answer the question.

*Questions without Notice Resumed*

**Mr R.F. JOHNSON:** I have answered the first part of the question, which is the same as the first three parts of the question that was asked in the other place. The other ones that I do not have in front of me —

**Mr E.S. Ripper:** What role will you play in the FESA reform process?

**Mr R.F. JOHNSON:** I will play a role alongside the implementation committee —

**Mr E.S. Ripper:** What role?

Several members interjected.

**The SPEAKER:** Thank you, members!

**Mr R.F. JOHNSON:** Members opposite do not want to hear. I will play a role, I assure the Leader of the Opposition, and I will play a very important role.

ROLEYSTONE–KELMSCOTT BUSHFIRES — KEELTY REPORT —  
MINISTER FOR EMERGENCY SERVICES

**533. Mr E.S. RIPPER to the Minister for Emergency Services:**

I have a supplementary question.

Recommendation 53 of the Keelty report calls for the Fire and Emergency Services Authority to examine staff capabilities relating to measuring and mapping fuel loads, to examine the rules for controlled burns and to build effective working relationships with stakeholders. What has the minister done to ensure that that recommendation is implemented before the start of the next threatening bushfire season?

**Mr R.F. JOHNSON replied:**

I have met with FESA members and I have made it quite clear to them that I want those recommendations fulfilled. They are already working on —

**Mr E.S. Ripper:** Are you satisfied that they are working on this one?

**Mr R.F. JOHNSON:** They are certainly working on that one; I have been assured that they are.

Several members interjected.

**The SPEAKER:** Thank you, members!

#### PERTH CITY LINK PROJECT

##### 534. Ms A.R. MITCHELL to the Minister for Planning:

With the *Economist* magazine rating Perth as the eighth most liveable city in the world, can the minister update the house on the government's commitment to continue to improve Perth's liveability through projects —

**Mrs M.H. Roberts** interjected.

**The SPEAKER:** Take a seat, member for Kingsley. Member for Midland, if you want to stay in here, stay in here. If you want to ask a question, stand up and ask a question. I am formally going to call you to order for the first time!

**Mr P.B. Watson** interjected.

**The SPEAKER:** Member for Albany, I formally call you to order for the first time as well!

**Mr P.B. Watson** interjected.

**The SPEAKER:** If the member for Albany wants to be called for the second time, I will oblige him. I formally call you to order for the second time today, member for Albany!

**Ms A.R. MITCHELL:** With the *Economist* magazine rating Perth as the eighth most liveable city in the world, can the minister update the house on the government's commitment to continue to improve Perth's liveability through projects such as the Perth City Link?

##### **Mr J.H.D. DAY** replied:

I was very pleased to see that the Economist Intelligence Unit has rated Perth in the top 10 most liveable cities in the world—in the eighth position, as the member for Kingsley indicated. I think that is a reflection of the increased vibrancy, amenity and opportunities that are now being provided in Perth through a combination of efforts by government—state, local and federal to some extent—and also by the private sector. There is one project, of course, that has been talked about for decades as an aspiration; that is, sinking the rail line in the vicinity of the William Street bridge and westwards, and sinking the Wellington Street bus station—the Perth City Link project as it is now known. I am very pleased to say that that project not only is being talked about, but also is now underway. The construction work is underway through the Public Transport Authority and also with the strong involvement of the East Perth Redevelopment Authority, of course, as the overall project controller for the City Link project.

Also from today the land is now on the market for expressions of interest from developers so that we can take the project forward. Not only will the construction be completed, but also the land will be sold to an appropriate developer so that the vast range of residential, commercial, retail and tourism developments can be undertaken. It is a very significant development opportunity for the private sector. The proposal will be marketed nationally and also internationally.

**Mr J.N. Hyde:** You announced this last year. Now you're trying to sell it. So you failed last year.

**The SPEAKER:** Member for Perth!

**Mr J.H.D. DAY:** The previous Labor government was very good at announcing things. I remember this project being announced —

**Mr J.N. Hyde:** Half of it's done. Come on; get on and do it!

**Mr J.H.D. DAY:** It was announced in the lead-up to the 2005 election. Six and a half years later, this project is getting underway.

**Mr J.N. Hyde:** Ten signs; that's all you've done.

**Mr J.H.D. DAY:** The member for Perth does not even know what is going on in his own electorate!

**Mr C.J. Barnett:** He should get out more.

**Mr J.H.D. DAY:** Why does the member for Perth not learn what is going on in his own electorate? He should have a look at the works that are underway there now and take note of the fact that 5.2 hectares of land is now on the market with an expressions of interest process to the private sector for major developers, organisations and companies with major financial resources and experience to undertake this development. The expressions of interest process will be open for 10 weeks, a shortlist will be prepared and then a more detailed selection will

occur over the following 12 months or so. We expect by the end of 2012 that a developer will be appointed and further negotiations can occur so that the project can be completed.

Members will recall that in the budget this year we allocated additional funding, I think in the order of \$57 million or thereabouts, to bring forward the new city square project to ensure that that aspect of the project will be not only funded, but also undertaken by about 2016 when we expect the bus station to be undergrounded as well.

This is a major component in redevelopment of Perth as the capital city of Western Australia. It will have a transforming effect on the capital city, together with the Perth Waterfront project—which is also now going through the detailed design and approvals process—and the Riverside project near the Causeway. These three projects, together with what has been achieved in recent years, will completely transform Perth and make it much more attractive and liveable for both the residents of Western Australia and visitors to the state.

#### WOODSIDE BROWSE LNG HUB, JAMES PRICE POINT — SOCIAL IMPACTS

##### **535. Mr M. McGOWAN to the Minister for State Development:**

Before asking my question, I acknowledge in the gallery today the political and legal studies students from Kolbe Catholic College in my electorate.

I refer to the James Price Point gas hub north of Broome.

- (1) What has the minister done to progress the social impact strategy, as required under the minister's agreement with the traditional owners?
- (2) What is the minister doing to ensure that the local essential government personnel based in Broome are retained in the public service and not driven out by cost increases?
- (3) When will the minister make public his strategy for mitigating the social impacts in Broome, such as on housing, social services and youth housing, and on access to medical services such as doctors and dentists?

##### **Mr C.J. BARNETT replied:**

It is the James Price Point precinct. A “gas hub” was the concept for a third party processing gas; that will not happen on that site. The proponents of projects will process their own gas. It is a pedantic point but a different point.

**Mr E.S. Ripper:** Another lecture!

**Mr C.J. BARNETT:** It is important, as the Leader of the Opposition knows, to get the semantics right. It is a different concept.

The agreement with the Aboriginal traditional owners was signed in this Parliament a matter of only a few weeks back. The final investment decision by Woodside is not expected until the second half of next year; so, like all big projects, there is a fair bit of time to run.

A whole lot of social studies work, environmental analysis and the like have been done; however, this government will start to deliver some of the social programs into that area. The social components have been made public. Indeed, the benefits package was tabled in this Parliament in full, and includes housing, land and so forth.

As to the impact of the precinct and what it will mean for Broome, when construction gets underway literally thousands of workers will be building the liquefied natural gas—LNG—plant. They will be located at worker accommodation at James Price Point; they will not be accommodated in Broome. At present Woodside is doing some initial geotechnical and other work on the site, as it must as part of its front-end engineering design—FEED—process. Woodside made the comment during the week that around 250 employees, either direct employees of Woodside or employees of contractors, are working with Woodside on the site at present. The observation was made that, once constructed, the operational workforce of the LNG plant will be about the same size—around 200 to 300 employees. It will not have a dramatic impact on the cost of housing and the like, but it will give a strong economic base for employment and training, particularly for Indigenous people.

What it will also give is year-round stability in bookings and turnover for the tourism industry of Broome. Instead of being a seasonal—sometimes a seasonal alone—industry, the accommodation and tourist facilities, restaurants and the like, in Broome, will now have 12-month customers. I think that is a good thing. There are a lot of issues and there is a lot of work to be done on James Price Point. There is a lot of work to be done with the joint venture partners and the Kimberley Land Council, and in child protection, education and health. The total size of this benefits package is \$1.5 million, which is funded by Woodside and the state government. Interestingly, there was virtually no contribution from the commonwealth government—virtually none—yet it is the commonwealth government that will derive most of the future benefits.

**Mr M. McGowan:** Well, you didn't negotiate very well. We got a much better deal over Gorgon, and you have not got a good deal out of this one.

**Mr C.J. BARNETT:** Not too many people live on Barrow Island, to my knowledge.

**Mr M. McGowan:** No; you know exactly what I am talking about! You know about the royalty stream.

**Mr C.J. BARNETT:** The Labor Party cannot come to grips with the fact that it was a Liberal–National government that sat down on the beach and signed a heads of agreement with the Aboriginal traditional owners. Yes, it took another two years to finalise the agreement, but it was the largest and most significant act of self-determination by Aboriginal people in Australian history, and who did it? From the government's perspective, it was the Liberal–National government. That is something members opposite could not do; they could not achieve that.

#### WOODSIDE BROWSE LNG HUB, JAMES PRICE POINT — SOCIAL IMPACTS

**536. Mr M. McGOWAN to the Premier:**

I have a supplementary question.

Is it not the case that the Premier's failure to provide real answers about the social impact strategy is putting public support—especially at Broome—for this project at risk?

**Mr C.J. BARNETT replied:**

No; it is not.

**Mr M. McGowan:** Why is it like it is?

Several members interjected.

**Mr C.J. BARNETT:** Because there is a division in the community. It is also tourist season.

**Mr M. McGowan:** Are you saying the locals don't care?

**Mr C.J. BARNETT:** There are a lot of people in Broome who have been a part of the activist campaign —

**Ms R. Saffioti:** Are you saying the locals support it?

**Mr C.J. BARNETT:** That is happening.

**Mr M. McGowan:** Are you saying the locals are on side?

**Mr C.J. BARNETT:** Look, you asked the question; I will answer it. The Aboriginal people voted strongly in favour of this project going ahead.

I heard the member for Kalgoorlie interject in the background and he is dead right. One of the reasons for that support is that these are not artificial jobs. They are not jobs created by government subsidies and schemes. They are actually real jobs that will generate income for the state and for the nation, and real employment opportunities and career opportunities for many people in the Kimberley, but particularly Aboriginal people.

**Mr R.H. Cook:** Live up to your side of the deal and create the social opportunities.

**Mr C.J. BARNETT:** This state government will. However, what I will not do is play the game of the last five or six years in which every time we step forward there is another idea for another study. We will deliver all the social commitments that we have promised in spades and more, and we will be out in the Dampier Peninsula to deliver on those programs in housing, land, health and education, from now. We will be doing it well in advance of even Woodside reaching its final investment decision, because that is the commitment of this government.

#### SHACK SITES INQUIRY — GOVERNMENT RESPONSE

**537. Mr A.P. JACOB to the Minister for Environment:**

Will the minister please update the house on the state government's response to the parliamentary inquiry into shack sites in Western Australia?

**Mr W.R. MARMION replied:**

I thank the member for Ocean Reef for his very good question.

On Tuesday I had the government's response to the inquiry into shack sites in Western Australia by the Legislative Council Standing Committee on Environment and Public Affairs tabled in the other house. The Legislative Council committee handed down its report on 14 April this year and the government has decided to accept seven of the eight recommendations. I must say that it was a very good report.

**Mr B.S. Wyatt** interjected.

**Mr W.R. MARMION:** There was one recommendation that the government decided not to accept in its entirety, and that was a recommendation about the shacks at Wedge Island and Grey.

The shacks on the coastline of Western Australia have different circumstances and histories. There are 1 000 shacks at 11 sites. That is quite a number. The sites at Wedge Island, Grey and D'Entrecasteaux National Park are managed by the Department of Environment and Conservation, and the site at Peaceful Bay is managed by the Shire of Denmark.

In line with the standing committee's report, the government will review its policy on the professional fishers' shacks and consult with the Shire of Carnarvon about the shacks at the blowholes. I visited the huts at D'Entrecasteaux National Park this year with the member for Blackwood–Stirling, and was impressed by the way in which the Lower Donnelly River Conservation Association managed its shacks. We looked at how we could manage those shacks, in line with the recommendations of the committee. There are some qualifications regarding the shacks at Wedge Island and Grey. I intend to extend the lease for another 12 months—therefore the leases at Wedge Island and Grey will be extended through to 30 June 2012—while we look at the possibility of creating options for public low-impact, nature-based visitor facilities and accommodation in these areas. As part of that process, I will be consulting with the associations at Wedge Island and Grey and I also plan to visit the associations later this year.

The issue of Grey and Wedge Island requires an examination of the current situation. We have to look at planning, environment, safety, health and building requirements for these sites if we are to move forward. One thing that we will do—I know that you, Mr Speaker, will have an interest in this—is remove any abandoned or newly erected shacks.

We have been in power for three years. This issue goes back many, many years. I admit that it even goes back to the previous Liberal–National government. However, in three years we have developed a policy and members opposite had eight years.

**Dr A.D. Buti:** Get on with it!

**The SPEAKER:** Members!

**Mr W.R. MARMION:** The former government had eight years to do something and I would like to report to the house that we are doing something. We have created a policy position that will guarantee —

Several members interjected.

**The SPEAKER:** Order! Member for Armadale, I formally call you to order for the first time today, along with the members for Pilbara and Victoria Park.

**Mr T.G. Stephens:** What about the minister for saying stupid things!

*Withdrawal of Remark*

**The SPEAKER:** I will give you the opportunity to withdraw that comment, member for Pilbara and I am going to formally call you to order for the second time today.

**Mr T.G. Stephens:** Which bit would I be withdrawing, Mr Speaker?

**The SPEAKER:** I do not think that you should be asking me that question, member for Pilbara. I simply instruct you to withdraw the comment.

**Mr T.G. STEPHENS:** I withdraw whatever bit you want withdrawn, Mr Speaker.

Several members interjected.

**The SPEAKER:** Member for Pilbara, I think that you want to stay in this place for a little longer today, do you not? Yes, I think you do! I do not want to hear from you again today, member for Pilbara.

**Ms R. Saffioti** interjected.

**The SPEAKER:** Member for West Swan, I do not want to hear from you either at this point.

**Ms R. Saffioti** interjected.

**The SPEAKER:** I formally call you to order for the first time. The only person I want to hear from at this point, whether anybody in this place likes it or not, is the Minister for Environment.

*Questions without Notice Resumed*

**Mr W.R. MARMION:** Thank you, Mr Speaker. As I was saying, our policy guarantees that the state's coastline will have a proper environmental and planning policy for all shacks. In closing, I thank the members and staff of the Standing Committee on Environment and Public Affairs for the time and effort that they have put into preparing what I consider to be one of the better reports to have come from the other house.

## EARLY CHILDHOOD SERVICES — WRIGHT REPORT

**538. Mr B.S. WYATT to the Minister for Education:**

I refer to the report into early childhood services commissioned by the government in 2009 and authored by Brenton Wright.

- (1) Why has this report been under consideration for so long?
- (2) What recommendations does the report make about proposed amendments to the education act; will the government be implementing all of those recommendations; and, if not, why not?
- (3) Does the government intend to make the report public, and if so, when; and, if not, why not?

**Dr E. CONSTABLE replied:**

(1)–(3) I thank the member for Victoria Park for his question. He is referring to the Brenton Wright report into early education services in the state, which was done some time ago. The member would be aware that a great deal of work has been done in this area to improve services to children before school age. I might say that one of the main issues is that the legislation does not allow us to appropriate funds for programs below kindergarten age. That is an issue that is being dealt with at the moment.

**Mr B.S. Wyatt:** Does it recommend that you amend the legislation to include zero to three-year-olds?

**Dr E. CONSTABLE:** What we are considering at the moment is changing that legislation to allow appropriation of funds in that age range; that has to occur before we can progress too much further. That is the main legislative issue that is being dealt with at the moment. The Brenton Wright report was there to assist government in its deliberations in the area of early childhood, below kindergarten age, and that is what it is being used for. It was commissioned through the Department of the Premier and Cabinet and there are no plans to make it public.

## AUSTRALIAN BUREAU OF STATISTICS HOUSEHOLD INCOME AND DISTRIBUTION DATA

**539. Mr J.M. FRANCIS to the Treasurer:**

I quickly acknowledge on behalf of everyone here Eliza Blue from the ABC, who finishes up today, and we wish her all the best for the future.

I refer the Treasurer to the recently released Australian Bureau of Statistics household income and distribution data. Can the Treasurer inform the house how this information relates to Western Australia?

**Mr C.C. PORTER replied:**

There was a very important article that was part of a corridor conversation I had with the Leader of the Opposition. It deserves some little bit of inquiry. The article in *The West Australian* was titled “Mining boom blamed for rise in wealth gap.” The reason I found the conclusion of the article so interesting, albeit concerning, is that for several decades in this Parliament both sides of politics have invested in one central mechanism to try to improve the lot of all income earners in Western Australia, high, low and medium, and that is using our best endeavours to expand the resources economy. That has been the central plank of economic policy in this state for several decades, going back to the government of Sir Charles Court and prior to that. If that article is, strictly speaking, correct, it would be a very depressing thing if, after decades of that type of economic policy of growing the resources sector, we are simply making rich people richer and poor people poorer. If we are making lower income earners worse off by pursuing the central plank of economic policy, it would be very depressing. Essentially, that was what we can infer from the article. Also one of the pointers is that this goes to a much wider and very important debate in the Australian economy. In my own observation, the descriptions about the asserted two-speed economy are now almost indistinguishable from criticisms of growth in the resources sector. This view is emerging, particularly in east coast economic circles, that the woes of particularly eastern states manufacturers can be attributed to the success of the resources sector here. That type of thinking leads naturally to arguments that somehow we should slow down the speedy part of the two-speed economy. There is a great article in the Australian School of Business’s online journal, which refers to the super profits tax and reads, in part —

In effect, the government is intervening via the tax system to re-balance Australia’s two speed economy, notes Steve Walters, economist with JPMorgan.

While the booming mining companies may be slowed down via a new tax, the government will use the proceeds from the tax to boost growth in less fortunate parts of the economy.

This government rejects totally that type of thinking. But that type of thinking is given some strength and credence if it is true that all we are doing in this state is making rich people richer and poor people poorer. The article said two things: those on pensions and welfare in Western Australia are worse off and that the average weekly household income of the poorest 20 per cent fell \$3 through the period, which was 2008–09 to 2009–10. I want to make three very quick points before showing a couple of graphs. The first point is that the figures used

to sustain those conclusions were about the lowest 20 per cent of income earners; they are figures that were available from the ABS. What the Australian Bureau of Statistics said, interestingly, is that we should not use the lowest 20 per cent as the measure of low-income earners; the ABS said we needed to use the tenth to thirtieth percentile, so, if you like, the 20 per cent just above the bottom 10 per cent. That is made quite clear in this ABS research. The ABS report states that studies of income and expenditure have shown that such households in the bottom income decile with negative gross incomes tend to have expenditure levels that are comparable to those of households with higher income levels and slightly above the average expenditures recorded for the fifth income decile.

**Mr E.S. Ripper:** How do they do it?

**Mr C.C. PORTER:** That is interesting. The article suggests these households have access to economic resources such as wealth or that the instance of low or negative income is temporary, perhaps reflecting business or investment start-up. If we count the bottom 10 per cent, we are counting households with trust funds or entrepreneurs in between business start-ups. The ABS says we should look at households in the 10 to 30 per cent decile as the measure of low income.

**Mr T.R. Buswell:** That could be people misusing their credit cards.

**Mr C.C. PORTER:** Indeed. I will show members some graphs. When we look at that low income using the ABS measures, the other thing to remember is that simply saying there is a gap between the top 20 per cent and the low-income earners does not mean that low-income earners are worse off. That is what we can infer from the article. It is possible that we can have a much smaller gap between low-income and high-income earners and still be much, much worse off. I will break this graph down for members.

Several members interjected.

**Mr C.C. PORTER:** The graph is the right way up, and I will explain why. The dark blue bar is the top 20 per cent of incomes in Tasmania and Western Australia and incomes on average, and the light blue bar is the low-income earners in each of those states. It is very interesting.

Several members interjected.

**Mr C.C. PORTER:** Not Tasmania—I could have done that green, and I will explain that in a moment. Members can see the significant gap between the bottom 10 to 30 per cent in Western Australia and top 20 per cent. The gap is lower in Tasmania; there is no doubt. But if that is the measure of whether people are better or worse off, it is not the measure we should be using. When we look at figures for the low-income households in Tasmania and Western Australia and at the national average, we find that low-income earners in Western Australia are better off than anywhere else in Australia—and by a very, very significant amount.

**Mr E.S. Ripper:** They have never had it so good!

**Mr C.C. PORTER:** The point is —

Several members interjected.

**Mr C.C. PORTER:** The point is —

**The SPEAKER:** Members! Presuming that there are people who wish to ask more questions, I am just simply going to ask for no interjections at this point so that the Treasurer might complete the slide show.

**Mr C.C. PORTER:** I am very close, Mr Speaker. The point is that both sides of this house have invested enormous time and energy and public funds in trying to grow our resources sector. There is a view emerging that that is counterproductive for low-income earners in this state. The ABS figures show good news in terms of what this government has done, and what the former government and governments before have done; that is, we are improving the income generation capacities for low-income earners.

The final slide shows low-income earners in every state in Australia. The low-income earners in Western Australia earn significantly more than those anywhere else in Australia. What is also instructive is that the other state that does quite well is a state with similar economic policies to Western Australia, and that is Queensland, which has also sought to grow its resources sector.

**Dr A.D. Buti:** They should be in red!

**Mr C.C. PORTER:** No, they are nice people in Queensland. That is very, very good news for the Western Australian economy. It shows that the enormous amounts of time and money invested by both sides of this house are trickling down and causing good growth effects for low-income earners in Western Australia.

*Tabling of Papers*

**Mrs M.H. ROBERTS:** The Treasurer in his slide show had a number of documents in the form of graphs, and I was so fascinated by them I thought perhaps he could table them so that I could examine them further.

**Mr C.C. PORTER:** Anything that fascinates the shadow Treasurer, fascinates me. I will table these.  
[See papers 3808 to 3810.]

*TOP GEAR — PERTH LIVE SHOW*

**540. Mr J.N. HYDE to the Minister for Tourism:**

In relation to state funding being provided for a non-televised live show called *Top Gear* at Burswood Dome, I ask —

- (1) Exactly how much government funding has been provided by Eventscorp for this performance?
- (2) If the minister will not reveal the amount of government funding, why not?
- (3) Why did the minister mislead Parliament on Tuesday by claiming that 385 million people will be watching a show filmed here in WA, or does he have no idea —

Several members interjected.

**Mr J.N. HYDE:** No; I am just seeing the cogs. I will continue —

- (3) — of the difference between a live show and a televised TV series?

**Dr K.D. HAMES replied:**

- (1)–(3) That is a complex question. No, I will not say what the amount is. I have to say that the reason is not one of my doing. Eventscorp and Tourism WA, through the member's government and through mine, have discouraged their ministers from revealing details about how much money is provided. I have to say that I do it reluctantly, because I like to go out there and boast about how much money we are putting in, but their advice to me, which I have taken —

**Mr E.S. Ripper** interjected.

**Dr K.D. HAMES:** Yes. But the advice I have taken is that it complicates matters when going out and providing funding for other activities —

**Mr E.S. Ripper:** Draft your notice and send it off to the Auditor General.

**Mr J.N. Hyde:** The Auditor General says you should.

**Dr K.D. HAMES:** I understand that the Minister for Tourism on your side followed that same advice.

**Mr E.S. Ripper:** Draft a notice, table it in the house, and send it off the Auditor General; that is what you're required to do.

**Dr K.D. HAMES:** If the member is asking me to table information that they advised me to keep confidential—I mean, really, I do not have any problem with giving those figures to the member myself.

**Mr J.N. Hyde:** Great; thanks!

**Dr K.D. HAMES:** I do not intend to do it here because I do not actually have with me what those figures were; I did yesterday, but I do not recall what they were. I will tell the member that confidentially. For me, it is not a big issue, so I am happy to tell the member what it is.

On the second issue about the live audience, my understanding is that this show is called *Top Gear Live*, and it is watched by that number of people as an audience worldwide. That is how many people watch it. If the member has different figures, I will be pleased to hear them.

**The SPEAKER:** Supplementary.

*TOP GEAR — PERTH LIVE SHOW*

**541. Mr J.N. HYDE to the Minister for Tourism:**

Given that this house does not know whether the minister has signed off on sponsorship for a show that will be seen by 12 000 people or the 385 million people that the minister said on Tuesday, will he table the full business case for Eventscorp funding of *Top Gear* so that taxpayers can see for themselves whether the minister was driving us down the path of a One Movement for Music festival funding fiasco?

**Dr K.D. HAMES replied:**

I do not regard that as a supplementary question.

Several members interjected.

**The SPEAKER:** Members!

**Mr J.N. Hyde:** You lied to the house!

*Withdrawal of Remark*

**The SPEAKER:** Member for Perth! One, I am going to ask you to withdraw that; and, two, I am going to formally call you to order for the second time today.

**Mr J.N. HYDE:** I withdraw.

**The SPEAKER:** Thank you, member for Perth.

**Mr J.N. Hyde:** That's what he told the house—385 million.

**The SPEAKER:** Member for Perth, I will formally call you to order for the second time today.

Member for Perth, for your information, prior to other people speaking in this place, I was going to rule your supplementary out of order. There was not a direct link to the first part of your question.

**BILLS***Returned*

1. Duties Amendment Bill 2011.
2. Parliamentary Superannuation Amendment Bill 2011.
3. State Superannuation Amendment Bill 2011.

Bills returned from the Council without amendment.

**PROFESSIONAL COMBAT SPORTS AMENDMENT BILL 2009***Third Reading*

**MR T.K. WALDRON (Wagin — Minister for Sport and Recreation)** [2.55 pm]: I move —

That the bill be now read a third time.

**MR R.H. COOK (Kwinana — Deputy Leader of the Opposition)** [2.55 pm]: I rise to make some comments on the third reading of this important legislation. The minister was right to leave this bill on the table for the period that he did so that he and his department could review the legislation to make sure that it was an adequate response not only to the needs of the act in the modern context, but also —

**The SPEAKER:** Members, we have a third reading in front of the place. I have given the call to the member for Kwinana; I have not given the call to anybody else. I would like to hear from the member, I am sure the minister would like to hear from him, and there might be other members in this place who would like to take part in the third reading as well.

**Mr R.H. COOK:** As the minister explained to this place, a number of amendments were brought forward to try to update this legislation to ensure that it could respond to the circumstances around the Briggs–Green fight that occurred last year. I think the minister and his department have done a fair job in tightening up the legislation to ensure that the Combat Sports Commission has a legislative capacity to put the sort of restrictions upon fights and make sure they are not sham fights. That includes provisions around the definition of a “sham fight”, amendments around the powers of the commission to revisit previous decisions to allow a fight to proceed, and the powers of the commission to withhold prize moneys when appropriate.

However, I continue to have misgivings in relation to this legislation. It is not just a failure of the legislation in relation to the Briggs–Green fight. As we can see from the report of Geoffrey Miller, QC, into that fight, there was intense pressure not only from Paul Briggs' team, but also from Danny Green's team and the promoters of that event to ensure that they got the necessary permits to ensure that the fight went ahead in Western Australia. The application for this fight had already been rejected in New South Wales, and for good reason, as we now know. But the Professional Combat Sports Commission came under intense pressure and was required to approve the fight—the minister might want to correct me here because my memory is starting to fail me in terms of the series of events—and it was almost, I think, within 24 or 48 hours of the application being received that the Professional Combat Sports Commission gave a permit for the Briggs–Green fight. The commission did not convene formally as a group at all; the decision was made by way of a ring-around or a circular resolution, as it is described, and we all saw, I think to our and the rest of Australia's dismay, the very false or shambolic nature of that particular fight.

It may be that that comes down to a question of strength of character—not the strength of legislation, but the strength of character of the people on the Professional Combat Sports Commission, and perhaps the strength of character and toughness of the minister himself. I do not know whether, if I was in the minister's place, I, too, would have looked Danny Green in the eye and said, “I know that you and your promoters have invested many millions in promoting this fight and getting the wheels under it, but we are now going to say no”. From the evidence we have now seen, Paul Briggs was not in a fit state to fight.

As the minister has pointed out, a lot of the evidence that we now know surrounded the Paul Briggs–Danny Green fight came to light after the event; that is, after the Professional Combat Sports Commission had made its decision. There is some ambiguity around whether, under the old legislation, the Professional Combat Sports Commission had the capacity to revisit a decision. That has now been tightened up in this legislation, and it is one of the good amendments that the minister has brought forward to significantly reform this legislation. However, there is still a concern that, although we have made some legislative changes around the governance of combat sports in Western Australia, the same people are still in place, and the same people will be making the decision if they are put in the same position in the future.

An important aspect of this legislation is that it extends beyond professional sports, because it will capture all combat sports, both amateur and professional. That is a very important and worthwhile amendment, and it is one of the key reasons that we on this side of the chamber will be supporting this legislation. As I mentioned before, I have had some contact with the amateur boxing community. I must say that I think the rigour with which amateur boxing governs its sport seems to outshine the rigour with which professional boxing governs its sport.

This legislation will be governing martial arts. This legislation will also be governing mixed martial arts whenever that inevitably makes its way to the west coast. During the second reading debate, a number of members repudiated mixed martial arts and said they hoped we would never legalise that in this state. I guess it is now for the minister and his team at the Combat Sports Commission to rigorously meet the challenges that will arise from mixed martial arts. I do not pretend to have all the answers in relation to that. But I share the minister's view that it is much better to try to manage these things than to try to have them outlawed. These things will happen. People, for better or for worse, and for good reasons or not, will choose to try to arrange organised fights. I think it is very sensible that we as a Parliament try to design laws that will bring these associations and these fight clubs into a regulatory regime that will enable us to ensure the health and safety of the combatants.

As the minister has observed on a number of occasions during the debate on this legislation, in particular in consideration in detail, this legislation is about the health and wellbeing of the contestants in combat sports. It is most appropriate, therefore, that we put in place a system that will ensure that only contestants who are fit and able to undertake combat sports without causing undue harm to themselves can be registered to engage in those sports.

The Labor opposition moved a number of amendments that would have increased the rigour and strength of this legislation. We appreciate that the minister has a contrary view. However, we believe that the legislative changes that we proposed would have strengthened the ability of this legislation to achieve what the minister says he wishes to achieve—that is, to ensure that the health and wellbeing of the contestants is uppermost.

In the consideration in detail stage, the opposition sought to have this piece of legislation referred to a committee. We believe that some very powerful forces will be brought to bear in relation to the rigour and strength of this legislation. The government used its numbers to defeat the referral of this bill to a committee, as is its right. But let it be said that the legislation therefore lives, and, indeed, dies, upon the confidence that the minister expresses in it. The minister has said that he is confident that the shambolic events of the Danny Green–Paul Briggs fight will never occur again in Western Australia. We believe that further investigation and inquiry by a parliamentary committee, with the advice of experts in this field, would have enabled this Parliament to move forward with greater confidence on this bill. Therefore, although we accept that the government had the numbers to defeat the referral of this bill, we regret that the Parliament did not have the benefit of further information that it could have brought to bear in order to strengthen this legislation.

We will be supporting this legislation. We wish the minister, and the Combat Sports Commission as it will be constituted under this reform legislation, all the best in governing combat sports in this state. We think this is a very necessary reform. As the minister has observed on a number of occasions, this legislation was previously brought forward by the member for Balcatta in his role as Minister for Sport and Recreation, and the member for Balcatta has brought forward amendments since that time to further improve the legislation. We wish the legislation well, to the extent that we can; and, with our reservations and qualifications in mind, we commend the bill to the house.

**DR A.D. BUTI (Armada)** [3.06 pm]: I rise to add to some of the words expressed by the member for Kwinana on the Professional Combat Sports Amendment Bill 2009. As the member for Kwinana has said, we are generally supportive of this legislation. I would like to thank the minister and his advisers for the consideration that they gave to the concerns that we raised during the consideration in detail stage. Of course we would have liked some of our proposed amendments to have received approval, but that was not to be. However, I do thank the minister for considering them.

This bill in many respects is influenced by the Briggs–Green fiasco, which I do not need to repeat at this stage. This legislation seeks to ensure that the holding of sham boxing and other combat events is not repeated in this state. It also seeks to ensure, more importantly, the health and safety of the participants. We are not talking just

about boxing. But that is the most high profile contest that this legislation will be dealing with. There are many views about whether we should even allow boxing to take place. I have a personal view. But I cannot allow my personal view to necessarily dictate state public policy on this matter. Many people in the community believe that boxing is such a dangerous sport that no matter what safeguards we put in place, eventually, if people stay in the sport for long enough, significant brain damage will result. Often people use the example of Muhammad Ali, probably the greatest boxer, or greatest boxing personality, of all time, to confirm their views about why boxing should not take place. But the other side of the story, which is often utilised, is that boxing has provided an opportunity for many people from the so-called wrong side of the tracks to get a lift up in life. That is why I have always had a hard time deciding where I sit on this matter. But I will leave my personal views for another day.

We are supportive of this legislation. As I mentioned during the consideration in detail stage, there are some inconsistencies in the legislation with regard to the language that is utilised; for instance, the definitions of “natural person” and “person”. However, the minister did explain what he thought those words meant.

I want to raise one other issue which I would have liked to be included in the bill, but for which we did not put up an amendment. The legislation does tighten up the operation of the commission, and I applaud the minister for that. However, I would have liked the medical personnel on the commission to be given the final veto with regard to whether an event should be permitted to take place on the basis of the health and safety of the participants.

All in all, I believe this legislation should be passed by this house, because it deals with some very important public policy and health issues.

**MR T.K. WALDRON (Wagin — Minister for Sport and Recreation)** [3.10 pm] — in reply: I thank members for their support of the Professional Combat Sports Amendment Bill 2009 and for their contributions. There has been a bit of debate during the second reading stage and consideration in detail. We probably covered a lot of ground two or three times but it was good. I thank in particular the member for Kwinana, the member for Armadale, the member for Balcatta and the member for Alfred Cove for their input during consideration in detail.

I wish to acknowledge the former Minister for Sport and Recreation, the member for Balcatta, for his work and knowledge in this area and for setting the groundwork for this bill. I would also like to thank the Department of Sport and Recreation, especially Greg McGuire, Evan Stewart, Jennifer Riatti, Ron Alexander and all the other staff involved. A lot of work has been done on this bill. Quite a lot has been said about the Green–Briggs fight. We all know about that fight; we have gone over it many times. It put those officers from the department under a lot of pressure. They handled it very well under fairly trying circumstances.

This is important legislation. It is about the health and safety of the contestants and the integrity of combat sports. The bill was first started by the previous minister. The bill was not as a result of the Green–Briggs fight but the amendments were. We learnt and we have covered to the best of our ability the possibility of the situation arising again. I am confident that this bill will further tighten things. We can never say that another situation might not arise one day that will make us look at further provisions because that is what happened on this occasion.

I look forward to the bill going to the upper place and becoming law for the benefit of our combat sports, but more particularly for the benefit of everyone involved in the area and for the integrity of the sport. I thank everyone for that. I look forward to combat sports being run particularly well, providing a safe environment and delivering lots of benefits to our community.

Question put and passed.

Bill read a third time and transmitted to the Council.

## CONSERVATION LEGISLATION AMENDMENT BILL 2010

### *Second Reading*

Resumed from 22 June.

**MR C.J. TALLENTIRE (Gosnells)** [3.12 pm]: I wish to continue the speech I began on the Conservation Legislation Amendment Bill some time ago. From the outset, it needs to be said that the low priority that the government is giving to this bill is somewhat telling. The fact that it has been held off as a filler indicates that the Leader of the House and the government have not treated this legislation as a priority. It is disappointing to many people who want joint management of parts of our conservation estate in place. Indigenous people are very keen to be involved in the management of their lands. The contributions made by members on this side of the house on a range of debates are extremely valuable. Anyone who dismisses that dismisses the enhancement of legislation that goes on when members on this side of the house make contributions, in turn missing the whole point of the parliamentary process.

When I spoke on this bill several months ago, I think, I was able to outline a little of that important feeling that Indigenous people have for country, that connection that is very important to people. They are attached to their country and they want to be involved in the management of that country. Through the development of the state and through the decisions taken on areas becoming parts of the conservation estate, we have created national parks, conservation parks and nature reserves. We created a host of land tenure that is essential for the preservation of the values of our state. In doing so, we have not maintained our legislative mechanisms to ensure that Indigenous people can be part of the management of those areas of the conservation estate. In essence, that is what this bill is really about.

**Mr D.A. Templeman:** Where is the minister?

**Mr R.F. Johnson:** He should be here.

**Mr C.J. TALLENTIRE:** I am looking forward to the minister coming into the chamber. I think he may be getting a briefing on the bill. I will be happy to help him with that when he arrives.

The bill provides that in the future the Department of Environment and Conservation, through its director general, will be able to enter into a joint management agreement with Indigenous groups. That cannot happen presently; it is a voluntary arrangement. It enables people to be voluntarily involved in the management of land. I need to stress that this is about management of land; it is not about a form of ownership. We have seen different situations around the state that have made it apparent that we need this change. Some of the native title agreements that have occurred have helped bring this about. A number of situations have made it necessary for us to make this change.

Before getting into a bit more detail, I wanted to refer to a document that the South West Aboriginal Land and Sea Council put out. It outlines how the Nyoongah people should be involved in the consultation process. It is a very useful document. When the minister arrives, I may be able to present him with a copy so that he can see some of the essentials that are involved in that protocol that should guide people when seeking to consult with different Indigenous groups. Some of the principles in the protocol are things such as free, prior and informed consultation. We must make sure that people are well and truly across the details of what they are being consulted about and that people have the right to say no. This document from the South West Aboriginal Land and Sea Council advises that the Nyoongah people should have the right to say no when it comes to agreements. There should be mutual respect and information levels should be balanced. We should not have a power imbalance occurring in which one side has a wealth of scientific data to which the other side is not able to respond because it has not had the time, the opportunity or the training to be able to consult.

Other aspects are the need for relationship building between the Nyoongah people and the communities. The document acknowledges that Nyoongah country has been Nyoongah country for at least 45 000 years. These are some of the fundamentals that we need to have in place when going about the sort of consultation that would underpin a joint management agreement. There is the acknowledgement of the culture and the knowledge and expertise that comes with that culture. That is an issue that I will return to later because there is a lot to say about that knowledge and expertise. How do we ensure that we maintain and enhance it, that we give people the opportunity to speak widely with elders and that we do not lose expertise and knowledge as generations pass on? That is something that we have to really guard against.

Another thing in the protocol is the need for early engagement. It is not something that should be left to the last minute; it needs to be done as early as possible. Realistic time frames need to be used for consultation. Cultural protocols need to be put in place and, as I was saying before, resources need to be in place so that we do not have any power imbalances. There also has to be respect for intellectual property rights. Information has to be treated with respect and confidentiality. There needs to be a clear demonstration of results and how information has been presented. Those are some of the guidelines in the “Noongar Consultation Protocol Guidelines”. I think it is well worth the Minister for Environment reading that document. It is a brief but very useful document that will help guide anyone involved in consulting traditional owners and Indigenous groups who might be involved in some form of joint management.

I will touch on the very topical issue of national heritage listing in the Kimberley. I know that the Premier and others have made statements in this place that suggest a degree of ignorance about what national heritage listing actually means. The minister has some wonderful advisers in his agency who will be able to help him clarify for the Premier and his other colleagues what it really means to have national heritage listing and why it is necessary to take this large-scale perspective. An area of 19 million hectares has been covered by the listing. When we manage land for values—I know that the Premier also raised questions about what these values are—we need to take a view that goes beyond the icons. There is no ring-fencing of some of these places. If we talk about a particular place in an area such as the Kimberley, which is well defined by flooding events, we have to ensure that we are aware of the impacts of what happens down a watercourse during the wet season on other areas of land.

**Mr W.R. Marmion:** Don't you think the state government is in a good position to know what to do in those situations rather than rely on some people in Canberra to tell us what to do—how to best manage the Kimberley?

**Mr C.J. TALLENTIRE:** As I said, the minister has some excellent people in his agency who know how to be involved and will be involved. I think that great cooperation goes on between the Department of Environment and Conservation and the federal government agency. They are two bodies of expertise and there are other bodies, such as the Commonwealth Scientific and Industrial Research Organisation and different conservation groups. I point the minister to an excellent report by CSIRO, "Priority threat management to protect Kimberley wildlife", which came out well before the announcement by the federal environment minister. The report is about integrated land management, effectively; that is what we need to do. This large-scale listing puts us in a better position to consider the interests of the whole of the Kimberley.

**Mr W.R. Marmion:** Member, the Kimberley science and conservation strategy that we've implemented does that. We've actually allocated money to it as well—\$63 million.

**Mr C.J. TALLENTIRE:** Yes, that is \$63 million over how many years?

**Mr W.R. Marmion:** Four or five.

**Mr C.J. TALLENTIRE:** That is \$63 million over four or five years. The people who put this report together quantified how much money is needed so that we can preserve 45 species that are endangered in the Kimberley.

**Mr W.R. Marmion:** Will the commonwealth be providing that money? That'd be terrific if they do.

**Mr C.J. TALLENTIRE:** I will come to the sources of money between state and federal governments. However, I am addressing the negativity from the minister's side about the broad-scale nomination of the West Kimberley region for national heritage.

I was saying how the area is partly defined by flooding-type events—that is, the interplay between the cyclone season, flooding events, other parts of the natural environment and parts of the productive agricultural–pastoral environment. There is no boundary setting; we cannot ring-fence iconic areas. There will be constant movement; it is a fluid environment, literally, given that we have to deal with water. That is just one example —

**Mr W.R. Marmion:** I understand that but the issue is: why is the commonwealth getting involved? We understand all that; my department understands all that. Why do we need an overlap with another level of bureaucracy to have a look at it again for us?

**Mr C.J. TALLENTIRE:** I know that there is talk about agreements between the state and federal governments for environmental assessments.

**Mr W.R. Marmion:** Yes, strategic assessments.

**Mr C.J. TALLENTIRE:** At the moment, if something is going to potentially threaten the values of the Kimberley, that would trigger a commonwealth assessment and that is as it should be. That is the situation currently, so I do not really see a big difference.

**Mr W.R. Marmion:** For environmental things, yes, under their act. We're yet to define exactly how this will play out in terms of its implementation plans.

**Mr C.J. TALLENTIRE:** I think we can be confident, though, that this is a very positive step.

Let us move on from water. Another example is the introduction of different grasses for grazing and pastoral activities. We know there has been very widespread introduction of buffel grass in the Kimberley. For graziers and pastoralists, it has been useful and has helped them feed livestock. There are now proposals to introduce gamba grass. That is a highly flammable grass that would be useful as a fodder as well, but would lead to hotter, more intense fires. It would further exacerbate an already difficult to manage fire situation. The idea that the Premier puts that he is supportive of national heritage listing of the icons ignores the fact that many other things that will impact on those icons—that will impact on the whole of the region—will occur on lands that may not necessarily be iconic in their status. A fire that starts on a pastoral lease could burn on to the threatened ecological communities found in a watercourse. We must have integrated land management and that is why this approach of national heritage listing is so strong.

**Mr W.R. Marmion:** Sounds to me like a takeover.

**Mr C.J. TALLENTIRE:** I do not think it is a takeover at all, minister; it is simply a means of encouraging people towards a much more integrated approach. It sounds like managerial English to talk about integrated land management but that is exactly what we need to move towards. Unfortunately, much of our state's history has been about managing land along cadastral boundaries and up to the boundaries of a national park. That flawed approach has led us to problems with, as I said, water management and fire management. I can also turn to issues around the management, control and elimination of feral species.

**Mr W.R. Marmion:** With the Kimberley science and conservation strategy, that's exactly what we're doing; we're putting money in for weeds, feral control and fire control. That's part of the \$63 million.

**Mr C.J. TALLENTIRE:** Yes, but that is only part of it. It is useful, but it is only part of it. Somebody might come to the minister tomorrow saying, "I want to introduce this new crop onto my pastoral lease. I want to diversify." There are a whole lot of issues around how far we should go when it comes to allowing people to diversify activities on pastoral leases, but it might be that that particular crop is this gamba grass, which could then turn out to be an invasive weed.

**Mr W.R. Marmion:** Member, I have confidence in the department of agriculture to actually provide good advice for what sort of grasses should be planted, if, indeed, that's what should happen. So I've got a lot of confidence in the state system—a lot of confidence, member.

**Mr C.J. TALLENTIRE:** But it is important that we have a proper assessment process in place for that. We could also use the example —

**Mr W.R. Marmion:** We do; the department of agriculture has some very talented scientists.

**Mr C.J. TALLENTIRE:** I am talking about the processes; I am not talking about the expertise of the individual agencies, because I have a lot of confidence in those—although I acknowledge the gutting of expertise in, say, the Department of Agriculture and Food, and the general winding down of staff numbers when it comes to research. Likewise, I am not aware of any dramatic increase in staffing levels within the Department of Environment and Conservation's Kimberley offices. If they were fully resourced, that would make a big difference as well.

**Mr W.R. Marmion:** That's what the \$63 million is about, it will actually resource people. I'd like to know what the commonwealth is doing in terms of resourcing this national heritage plan.

**Mr C.J. TALLENTIRE:** The national heritage process will help us achieve a requirement on people to present proposals. If they are the proponent of a proposal such as increased management for the exploitation of a feral animal, such as camels, it is unlikely that we are ever going to have a viable commercial camel industry in place in the Kimberley, just because of the logistics involved.

**Mr W.R. Marmion:** Why do we need the commonwealth to get involved in that? We can make that decision.

**Mr C.J. TALLENTIRE:** I am saying that to listen to the sorts of comments being made by members of the Pastoralists and Graziers Association, one would think that it is full of great ideas that would not degrade the environment. We need to have a mechanism in place that would force them to put through assessment any proposal that they may have. Quite reasonably, they should be the ones who would have to pay for that assessment process and provide that information. They would have to hire the environmental consulting expertise to be able to show what their proposal's impacts would or would not be on the environment. That is the sort of thing that this listing will help achieve. It is going to be a means of properly assessing things. It is not going to be so-called unnecessary red tape at all; it is a check in the system. We need that check because, after all, as brilliant as the Kimberley is, there are many things going wrong there. We know there are many things that could be improved. Just to give another example, the control of feral cats in the Kimberley—what is happening there?

**Mr W.R. Marmion:** It's part of our Kimberley science and conservation strategy of \$63 million.

**Mr C.J. TALLENTIRE:** I thought the minister would say that it is part of the Kimberley science and conservation strategy, but that money is going to go only so far.

**Mr W.R. Marmion:** It's \$63 million! It's a massive amount of money.

**Mr C.J. TALLENTIRE:** Yes, over four years. I am coming to the part in the document that I referred to earlier that shows that that is just not going to be enough.

**Mr W.R. Marmion:** It's more than anyone has ever put in before.

**Mr C.J. TALLENTIRE:** I will come to how much is actually needed.

The key thing is that we need to be able to assess these ideas as they come up. People want to do more in the way of agricultural activity in the Kimberley and pressure is on to allow for diversification, and I support that; pastoralists should be allowed to pursue activities other than just grazing. In fact, I think there is a strong argument to say that if it were possible for pastoral leaseholders to produce grain and fodder crops, we could actually see some form of feedlotting in parts of the Kimberley that could allow for abattoirs to be run all year round, and we could then reasonably look at a chilled carcass trade with markets —

**Mr W.R. Marmion:** But they're outcomes that we don't need a national heritage listing to achieve.

**Mr C.J. TALLENTIRE:** The key thing is, minister, that to achieve that, we need diversification. We are talking about big swathes of land in the Kimberley that are currently run as pastoral leases. There is going to be

enormous pressure on us as decision makers to look at the forms of diversification that will be allowed to take place.

**Mr W.R. Marmion:** We're actually moving more towards conservation, as you know, with the two national parks in the Kimberley, and we are looking at linkages between the two national parks with the pastoralists, so we are actually looking at quite a massive conservation strategy.

**Mr C.J. TALLENTIRE:** That is excellent, but on those pastoral leases we will see more and more pressure for diversification, and we have to be sure that whichever diversification activity is put to us as decision makers, it is going to be consistent with the values of the Kimberley, as defined in the national heritage listing.

**Mr W.R. Marmion:** I'm sure that the state departments in Western Australia will be able to evaluate that without the commonwealth overlapping it.

**Mr C.J. TALLENTIRE:** I would agree with the minister if we had not seen such a dramatic decline in so many things.

**Mr W.R. Marmion:** Give me an example in the Kimberley.

**Mr C.J. TALLENTIRE:** I am glad the minister asked. This document I am holding is titled "Priority threat management to protect Kimberley wildlife". It was produced by the CSIRO and some excellent scientists are the lead authors of it; it was published just this year. Some of their concerns include threats to the environmental values in the Kimberley. One of the things they highlight is that there are currently 45 species that they have identified that are getting to a critical point where their population levels are 50 per cent less than they should currently be. That leads into a phase of critical decline.

**Mr W.R. Marmion:** What's their strategy to stop that? Our strategy is to eradicate feral animals.

**Mr C.J. TALLENTIRE:** That is fantastic, minister, but I can say that it will take more than \$63 million over four years to eradicate feral animals in the Kimberley.

**Mr W.R. Marmion:** Should we be putting more than \$63 million in?

**Mr C.J. TALLENTIRE:** I think that is a very good suggestion!

**Mr W.R. Marmion:** How much did you put in during the eight years you were in government?

**Mr C.J. TALLENTIRE:** I was not in this place at that time, but I am sure that much more could have been put in, that is for sure.

The minister asked me about the nature of some of the threats, and three broad areas have been identified in this document: fire; introduced herbivores, including cattle; and the need for eradication, control and quarantine of weeds. The control of introduced predators, particularly feral cats, is a further one. It is about threat management, and the report suggests that a sum of approximately \$20 million per year is currently spent on conservation; they have rounded, perhaps a bit flatteringly, the figures being put forward by the government.

**Mr W.R. Marmion:** That is \$63 million on top of what DEC already has been doing in previous years.

**Mr C.J. TALLENTIRE:** I will accept that, but I will tell the minister the figure required—the CSIRO figure. The wildlife of the Kimberley is likely to be secured with an initial and immediate investment of \$95 million—that is just for one year—followed by an ongoing investment of \$40 million per annum. I do not know if the government is going to be in a position to meet that.

**Mr W.R. Marmion:** I look forward to the commonwealth providing me with a cheque for that amount.

**Mr C.J. TALLENTIRE:** This is an independent assessment of the amounts of money required. The pot of money that is necessary has not been identified, but it is clearly an amount that has been researched and accounted for.

I was talking about some of the other reasons why we need this more integrated land management approach. Another classic one is just management of the soil. If we do not have people managing on a catchment scale, we will get soil erosion of dramatic proportions. One only has to see some of the silt flowing down rivers in areas where there is already excessive grazing for proof of that. The amounts of silt that go out —

**Mr W.R. Marmion:** Member, that's a very good point. In relation to that, because of your expertise, I would have more confidence in your analysing that issue than someone in Canberra. We can handle it here; how is someone in Canberra going to know how to manage the soil in the Kimberley?

**Mr C.J. TALLENTIRE:** The minister is well aware that when major projects have required both state Environmental Protection Authority assessment and federal Environmental Protection and Biodiversity Conservation Act assessment, a joint assessment has been carried out, and that has worked very effectively. Sure, there are slightly different perspectives, but proponents have generally been pretty happy with that approach. They have been allowed to present the same documents to both the state EPA and the federal agency,

so I do not think that there is a problem there. It simply ensures that we broaden things out. Most of the lead writers of this report are not based in Western Australia.

**Mr W.R. Marmion:** The experts probably have to leave WA to go to Canberra so that they can advise Canberra.

**Mr C.J. TALLENTIRE:** I do not believe people such as Brendan Mackey and Hugh Possingham have ever been based in WA. However, they are excellent scientists and it is useful to have their expertise and the benefit from our national pool of scientific knowledge on these sorts of matters. It is especially useful when there are a lot of similarities in the landscape between the Kimberley, the Northern Territory and the north of Queensland. For managing our northern landscape, it is useful to have the benefit of the expertise of those people who have done most of their research in, say, north Queensland. I therefore do not believe we should be excessively parochial about this matter. We should in fact relish the opportunity to gain benefit from people elsewhere in the nation.

Coming back to the specifics of the bill, listing on the National Heritage List puts a lot of emphasis on the preservation of and respect for Indigenous culture. Acknowledging that the conservation of Indigenous knowledge might involve the preservation of an icon site, it could also involve preservation at a landscape scale. Areas of land on a pastoral lease might be used for the cultural practices of a group of people who focus on specific areas. This approach, therefore, will improve our ability to identify those Indigenous cultural values. It will ensure that we look at them in an integrated way. It means that through the amendments in this bill, which the opposition support, the Department of Environment and Conservation can enter into a joint management agreement with the Indigenous people of an area and gain from their expertise. I think also Indigenous people might benefit from the scientific knowledge of people in the agencies, and perhaps benefit from hearing about the knowledge held by people not necessarily in the Kimberley but perhaps in far north Queensland. All sorts of benefits will come through taking this approach.

Something else that we must be mindful of, and this is another reason to get away from the preservation and ring-fencing of icons only, is that many of the recommendations —

**Mr W.R. Marmion:** Our strategy will do that. Our strategy is broad-reaching—two national parks, the linkage between them and four marine parks.

**Mr C.J. TALLENTIRE:** I know that the minister is very proud of the strategy, and rightly so.

**Mr W.R. Marmion:** It's pretty big.

**Mr C.J. TALLENTIRE:** That is fine. I am responding to comments made by the Premier in the past few days suggesting that the scale of protection in the Kimberley is 30 million hectares. The actual listing on the National Heritage List is 19 million hectares. There are several biogeographic regions in the 30 million hectares in the part of the world that is the Kimberley. The government must manage them at a regional scale. The government cannot look at managing them on a pocket handkerchief, cadastral boundary or national park scale. That is because often the nesting habitat of a particular bird species will be in one type of vegetation, feeding in another and breeding in some other area. Taking that icon-type approach does not constitute "protection", which the Premier referred to. That is what I am attempting to correct in the minister's mind. Perhaps it is clear in the minister's mind.

**Mr W.R. Marmion:** You should look at our strategy because I think it actually does provide a very good framework and a conservation strategy for the Kimberley. It is a very large area, but what the commonwealth has done is actually make it bigger than that and just put a big blob there. It does beggar the question of whether some of that area should be there at all.

**Mr C.J. TALLENTIRE:** That is my point. The government must think bigger. The bigger the government thinks about managing these things, the more integrated the management will be.

**Mr W.R. Marmion:** Where do you stop? The whole of Western Australia could be "bigger" in your example.

**Mr C.J. TALLENTIRE:** I am sure there are people in DEC who could explain this to the minister, but that is why the government needs to be guided by the Interim Biogeographic Regionalisation for Australia map. The biogeographic regions are bigger than catchments. They are often delimited by geological features. They are a reflection of the soil types, the vegetation types, the various watercourses, the geology and the coastlines. Those are the factors that help shape biogeographic regions and the scale upon which we need to manage them. In the whole of the Kimberley there are five IBRA regions, and there is an interplay between them as well. Often the edges of those regions are where the greatest diversity of species is found. There are unique situations in which a species will depend on dry rangeland areas, perhaps for seed if it is a granivorous bird species, whereas its nesting hollows will be in a totally different vegetation type. We have to look beyond those things. The minister is right: the bigger the better for managing areas. But there is a well-defined area, which is the Kimberley region, and the listing on the National Heritage List is based on that. So, that all makes perfect sense.

I have already said a bit about the importance of hydrology in considering these things, as that transcends the boundaries approach that the Premier was so very keen to take in his focus on icons.

**Mr W.R. Marmion:** I think you've misinterpreted the Premier. I think the Premier was being generous in saying that he might have been able to understand it a little bit if they'd actually picked out some of the iconic areas. I don't think he's actually supporting it at all. He could perhaps understand it if they'd picked out some of the primary, iconic conservation areas to protect. That's my interpretation of what he said.

**Mr C.J. TALLENTIRE:** That was not very clear from what the Premier said in the house in the last couple of days.

**Mr W.R. Marmion:** I think it is quite clear that he opposed the commonwealth intervention.

**Mr C.J. TALLENTIRE:** The Premier certainly sounded like he was opposing listing on the National Heritage List.

**Mr W.R. Marmion:** Correct.

**Mr C.J. TALLENTIRE:** He was perhaps geed along by groups such as the Association of Mining and Exploration Companies. That group has made is quite clear that it does not understand this need for integrated management.

**Mr W.R. Marmion:** I think integrated management is good but I think that we can deliver it at the state level.

**Mr C.J. TALLENTIRE:** What mechanism is there to do it, though?

**Mr W.R. Marmion:** We have Parliament. State Parliament is a good start, and we have departments underneath.

**Mr C.J. TALLENTIRE:** Yes, but there is no referral mechanism. We have already talked about the need for joint management of areas and that that is critical to management. An argument that is put up is that an extra layer of approvals will be required. We heard the Premier say today that Woodside's final investment decision will be made in about 12 months. I do not understand why an enormous company such as Woodside would have much difficulty meeting various approval requirements. Given the involvement that Woodside has in the area and the commitment it wants to show to the area, why would it run away from something as important as making sure that it is meeting the requirements of listing on the National Heritage List? I do not think it would have any difficulty at all in doing that.

I am sure Woodside is not a member of AMEC, but one comment from AMEC is that the proposed blanket listing of 19 million hectares in the West Kimberley region of Australia will add an unwarranted and unnecessary layer of approvals for all mineral exploration and mining activities. It is perfectly reasonable to expect people going into these regions to seek the necessary approvals using our state processes. Yes, they should also be able to meet the values that are outlined in this national heritage agreement; that is perfectly reasonable. The Pastoralists and Graziers Association has also commented on the decision about the number of cattle on a station. It is worried that it will not have the right to make a decision on the number of cattle that people can have on a station. My understanding is that people do not have that right anyway and that it is the Pastoral Lands Board that decides that. The minister is right that the Pastoral Lands Board is a state-based entity. If we were to return to the old days when the pastoral leaseholders made out that they were the owners of the land and could do whatever they wanted on the land, we would again see the damage done through overgrazing. Many areas are still significantly overgrazed or are still recovering from overgrazing. Anything that protects the values of the Kimberley makes that integrated land management —

**Mr W.R. Marmion:** We can do that at a state level, as I have said. We do not need the commonwealth to tell us how to do it.

**Mr C.J. TALLENTIRE:** If that is the case, minister, why has it not happened?

**Mr W.R. Marmion:** What is the problem? We are putting in \$63 million now and we have a strategy to improve the Kimberley. It is a big place.

**Mr C.J. TALLENTIRE:** Yes, the problem is that we have not had the processes in place.

**Mr W.R. Marmion:** What will the commonwealth do? It will put in place a process that —

**Mr C.J. TALLENTIRE:** It will assess proposals and check that they are consistent with the values as outlined in the national heritage agreement.

**Mr W.R. Marmion:** So they will stop things happening.

**Mr C.J. TALLENTIRE:** Only if the proposal is inconsistent with the values that we have in the national heritage agreement.

**Mr W.R. Marmion:** Do you know whether they will be putting in any money towards this strategy?

**Mr C.J. TALLENTIRE:** I think it is more about a set of values that has to be met. It is not the on-ground remediation work that both the minister and I know needs to occur. However, if we follow these sorts of principles from the outset, we need not get into a situation in which we have to do remediation work. This is protection; it is all about protection.

**Mr W.R. Marmion:** So you are saying that the commonwealth will have better values than us.

**Mr C.J. TALLENTIRE:** I am saying that the protection mechanisms are an added layer that we need. That is demonstrated by the fact that we have had so many failures, be they biosecurity failures —

**Mr W.R. Marmion:** Are you saying our protective mechanisms in Western Australia are inadequate or that they could be improved?

**Mr C.J. TALLENTIRE:** I am saying that we have had things fail us. That is for sure. It is clearly there. The feral cat problem is one example and the fire regime problem is another.

**Mr W.R. Marmion:** How is the commonwealth going to improve that? If there is an issue with our process in terms of continuous improvement, we should tweak our process rather than put another level of bureaucracy over the top. I would have thought that that was the first port of call.

**Mr C.J. TALLENTIRE:** If the minister were nominating a better mechanism, perhaps the commonwealth would have taken account of that. Clearly, he was not.

**Mr W.R. Marmion:** I do not think so. I think that the commonwealth bureaucracy wants more work; that is, to be involved more in states' affairs.

**Mr C.J. TALLENTIRE:** Minister, we have already agreed, in the course of the last 40 minutes or so, that the working relationship between the commonwealth bureaucracy and the Western Australian Department of Environment and Conservation is a very effective one, and it is one that draws on the expertise of the federal agency when it is necessary. I do not see that there is any reason for people to fear this. If they have a proposal, they can put it up; they just have to make sure it meets the standards as outlined.

**Mr W.R. Marmion:** It has to meet the state standard and also another level of assessment at the commonwealth level.

**Mr C.J. TALLENTIRE:** Quite often, the information provided at the state level will be the same information that will be presented to the commonwealth.

**Mr W.R. Marmion:** It could be even more detailed. Nevertheless, it will be slowed down while someone in the commonwealth has to understand what the high level of assessment done in this state means.

**Mr C.J. TALLENTIRE:** I am sure that the minister is aware that the time lines for the assessment of information presented to the commonwealth are very strict. They are shorter time lines than those in this state's assessment process. I think it requires a 28-day turnaround.

**Mr W.R. Marmion:** But it's unnecessary, isn't it?

**Mr C.J. TALLENTIRE:** I do not accept that it is unnecessary.

**Mr W.R. Marmion:** State proponents are concerned with the commonwealth coming in at the eleventh hour; that is, a process has been gone through, and, all of a sudden, near the end when the proponent thinks they are across the line, the commonwealth has to go through it again. That will delay projects.

**Mr C.J. TALLENTIRE:** I think that in time the minister will be able to get advice from his agency pointing out to him the many benefits of this national heritage agreement. That will also help the minister realise that it will enhance the work being done through the Kimberley science project and make sure that new projects coming into the area do not diminish or cause further loss of values in the Kimberley. The essence of this bill is the involvement of traditional owners with the Department of Environment and Conservation. We support that, as do a range of Indigenous groups. I note that a letter was sent to the minister back in March signed by the Goldfields Land and Sea Council, the Yamatji Marlpa Aboriginal Corporation, the Central Desert Native Title Services, the Kimberley Land Council and the National Native Title Council stating that they support the intent of the bill. They have some concerns in some areas, but they certainly support the intent of the bill. They are concerned about the exclusion of native title holders. I understand, as well, that this bill is not about land tenure. However, they are concerned that native title holders may be excluded. Perhaps that is an issue the minister will be able to address for us. They see it as a fundamental flaw in the bill, but there may be ways of allaying their concerns in that regard. They are concerned that there is no mechanism within the bill to ensure that traditional owners are directly notified about proposed management agreements and plans on land. They want to be sure that traditional owners will hear about the various agreements. They also pointed out that there is no obligation to provide written notice to the Minister for Indigenous Affairs.

**Mr W.R. Marmion:** Member, that has been addressed.

**Mr C.J. TALLENTIRE:** Has that been addressed?

**Mr W.R. Marmion:** It was addressed by way of amendment in the other place.

**Mr C.J. TALLENTIRE:** Good. However, I note that they are broadly supportive of the legislation.

**Mr W.R. Marmion:** Member, another letter was sent—although maybe it came only to me—from the South West Aboriginal Land and Sea Council. It supports the entire bill.

**Mr C.J. TALLENTIRE:** I understand that the South West Aboriginal Land and Sea Council is desperately waiting for this legislation to get through. It is very frustrated that it has taken so long. I also understand that there are still regulations that need to be drafted under this legislation and that that is causing a high degree of anxiety amongst those groups who want to be involved and who need to be involved as soon as possible.

I also wanted to outline the importance of management plans, and how this legislation requires that they are required to be registered with Landgate. That seems like a good initiative, but I am concerned that the production of management plans is a very lengthy exercise and that it takes a long time for them to be produced and provided to people. I am keen to know what resourcing the minister will put towards the production of management plans. Given that they are essential documents in this joint agreement process, it is important that they be produced quickly.

I am pleased that the legislation recognises Aboriginal heritage and makes it something that we can all respect and understand better. At the same time, it is important that whenever there is a conflict between environmental values and Indigenous values, the environmental value, when it has been fully researched and fully understood, will prevail; that is, the priority will go to the environmental value.

**Mr W.R. Marmion:** Correct.

**Mr C.J. TALLENTIRE:** That is important, as is a hierarchical approach to conflicts between tourism endeavours and the interests of Aboriginal culture, such that the tourism opportunity would give way to the interests of Aboriginal heritage. It is an important aspect and consideration that is, I am pleased to say, in the legislation.

It is important to note that, as I understand it, native title has been extinguished on about 80 per cent of the conservation estate. That gets us back to the issue of how native title rights will be involved. That is where some of the regulation work needs to be tidied up.

I will return to the preparation of management plans and ask for a little more detail on how the plans will be gazetted and what the process will be for that. Perhaps the minister can talk about that in his response. I have already mentioned how necessary it is that management plans are resourced. Essentially, this bill will allow the chief executive officer of the Department of Environment and Conservation, under the Conservation and Land Management Act, to enter into agreements with the Indigenous bodies through a joint management process. It is about the lands that are currently vested with the Conservation Commission and the Marine Parks and Reserves Authority.

**Mr W.R. Marmion:** It will also allow, for land that is not vested in DEC, the use of the DEC legislation to have management plans.

**Mr C.J. TALLENTIRE:** Is that land that is currently held by Indigenous groups?

**Mr W.R. Marmion:** And pastoralists.

**Mr C.J. TALLENTIRE:** There are many positive aspects to the legislation. I have already touched on the need for consultation, but I will just detail that a little further. We must have in place a process that will ensure that those management plans include things such as fire management, the management of feral species like camels, and what will be the role of the joint managers in controlling the spread of cane toads in the East Kimberley and managing cattle that are grazing off pastoral leases. A range of issues will need to be determined.

**Mr W.R. Marmion:** The good thing will be the joint management involving not only DEC, but also the Indigenous traditional owners in the plans to work out what to do with issues like cane toads. That's a hard one.

**Mr C.J. TALLENTIRE:** It is very difficult. There will be scope for Indigenous people to be involved in the management of lands that they have a connection to, in a way that we have not seen before. That is an excellent thing. I think it will open up a whole range of job opportunities as well. We have already seen Aboriginal ranger programs that are proving very successful. We are keen for Indigenous people to gain employment in a range of spheres, but I am not sure that working on a cotton farm, a melon farm or a sugar farm in the Ord River area is going to appeal to the Miriwung and Gajerrong people; it is not necessarily going to be their chosen career, whereas active involvement in the management of country really would appeal.

**Mr W.R. Marmion:** I agree. It gives them an option and that is one of the really good benefits of our \$63 million Kimberley conservation strategy. Part of that money will go to joint management and to employ traditional owners as rangers, such as the Yawuru at Broome.

**Mr C.J. TALLENTIRE:** I did read a research paper which looked at the potential economic benefits from Indigenous owned and controlled land and which pointed out the many economic benefits to Indigenous people from being involved in the control of land. There are those eco-services that we might call the feral pest-type programs.

**Mr W.R. Marmion:** And controlled burning, too. They get involved in controlled burning, particularly in the Kununurra area.

**Mr C.J. TALLENTIRE:** There are many benefits in that way. Perhaps it will enable them to work out where communities will be located and which communities will need additional servicing and that sort of thing. There is potential for them to be involved in some level of hunting and fishing as well and commercial and tourism businesses. Once we have got them involved in this management activity, there will be a lot of opportunities that open up for people living on country. From that point of view it presents many exciting opportunities, and it is a positive step forward for the state of Western Australia to feel that we have at last found a way of giving Aboriginal people direct involvement in the management of their lands. I am pleased to be supporting the bill today.

**MR T.G. STEPHENS (Pilbara)** [4.04 pm]: I have been listening to the contribution of our lead speaker in this debate and now I have developed more questions about the Conservation Legislation Amendment Bill 2010 than I had before I started to focus on it. I really hope that some of the issues that have been raised will be explained in more detail during this debate, either by the minister's reply to the second reading debate or maybe they can be teased out during the no doubt extensive discussion that might otherwise be offered during debate on the short title of the bill—so long as the member for Albany is not in the chair!

The opportunities that arise from the passage of this legislation have been described by the previous speaker and are welcomed by the opposition. In his contribution, the member for Gosnells has made favourable comment about the opportunities for involving the federal government in the consideration of the conservation values of the Kimberley. I have a view on this that is not in accord with the view of the minister or the member for Gosnells. I am of the view that to think that wisdom lies in Perth-based governments or Canberra-based governments to respond to the challenges with which people in the regional areas of this country are faced is misplaced confidence. The minister's assertion that somehow or other the state government of Western Australia will be able to work out what is in the best interests of the regional areas of Western Australia and the conservation values of the regional areas of Western Australia is as misplaced—I might say with profound respect—as the assertion by my colleague on the shared benches that —

**Mr W.R. Marmion:** I am suggesting that the state is certainly in a better position than the commonwealth.

**Mr T.G. STEPHENS:** The minister might assert that but I think he is as wrong —

**Mr W.R. Marmion:** The state has regional offices. My department has regional offices.

**Mr T.G. STEPHENS:** My experience of Perth-based administrations, Perth-based ministers and Perth-based Parliaments is that they are just as remote as, and sometimes more remote than, the offices of a national government. The truth in my experience of these things is that what needs to be done instead is that the two spheres of government, both national and state, need to find ways of empowering and resourcing regional communities so that they can manage their own affairs and celebrate and support their own understanding of their values to secure the advance of the conservation values, economic values, Indigenous values and tourism opportunities that come from tackling the issues with which they have been confronted over the years. The great problem is that governments, both in Canberra and here in Perth, can strut around with misplaced confidence that they have an understanding of how these things will usefully be played out and the two governments can become like two big elephants stomping around the regional areas of our part of this country and stomping all over the top of people who should instead be empowered and resourced by governments at both state and federal level to work through with the input of science, the input of expertise and the input of regional and local experience and wisdom to come up with strategies to tackle the conservation challenges and the many other challenges with which communities are faced.

**Mr W.R. Marmion:** I do not disagree with that sentiment; the wisdom is at the local level.

**Mr T.G. STEPHENS:** But I fear, however, that this legislation does not, by itself, adequately empower or resource the regional communities to do the job that needs to be done in regional communities. In my view, there has to be a whole restructuring of the constitutional and legal arrangements that govern the remote and regional areas of our country, so that the conservation estate and the interests of local people are better resourced and better tackled than they currently are.

I have not studied the Conservation Legislation Amendment Bill 2010 in detail, but perhaps the minister can point out to me where it is stated in this bill that there is now to be a hierarchy of values in the determination of decisions being taken in reference to Aboriginal landholdings that might in future be jointly managed with the conservation authorities, and that it will be the conservation values that are pre-eminently considered before

Indigenous values or tourism values. It is the minister's bill, so he, perhaps, has the responsibility to point out to me where that clause is in this bill. Is he able to yell it across the chamber for me?

**Mr W.R. Marmion:** Management plans will be developed in consultation with the traditional owners, so it will likely be a joint exercise.

**Mr T.G. STEPHENS:** Yes, but what clause of the bill gives that hierarchy of pre-eminence for the conservation values in the management of these lands so that they will be of greater value and significance than the Indigenous values?

**Mr W.R. Marmion:** It is in my notes; I cannot quickly get it —

**Mr T.G. STEPHENS:** The minister should get on top of his legislation! Every lacunae should be at his disposal.

**Mr W.R. Marmion:** If you can carry on, I will find it.

**Mr T.G. STEPHENS:** While the minister is looking for that one, I wonder whether he would not mind also telling me whether I understood his interjection correctly when he said that joint involvement in the management of the conservation estate would not only create opportunities for the traditional owners of Aboriginal reserves and Aboriginal owners of pastoral properties, but also provide for non-Aboriginal pastoral leaseholders, and perhaps the holders of other lands. Or is it that only non-Aboriginal pastoralists can enter into arrangements with the state government to take up the opportunities that will emerge under this legislation for joint management strategies for landholdings?

**Mr W.R. Marmion:** Section 8A agreements cover those agreements for land that does not come under the Conservation and Land Management Act; section 56A agreements are for lands and waters where the CALM act already applies. There are two elements of land management strategies in the bill.

**Mr T.G. STEPHENS:** Is the minister saying that this is section 8A of the existing statute, not of the bill?

**Mr W.R. Marmion:** Section 8A agreements are referred to in clause 8 and clause 20 of the bill.

**Mr T.G. STEPHENS:** Would the table officers mind giving me a copy of the act that is being amended by this bill? I would like to understand in more detail, during the second reading debate, how the minister's interjection during the earlier contribution will be achieved.

I would also like to make the observation that over the last three and a half decades I have watched closely the conservation structures of Western Australia and their interaction with the Indigenous communities of regional Western Australia in particular—the Kimberley and the Pilbara, especially. Historically, I have found myself very disappointed with the way that the conservation organisations, working to the policy settings of the governments of the day, responded to the ambitions of Aboriginal people in the management of lands that were of conservation interest; and in how there was, too often, reluctance displayed by the agencies. That reluctance sometimes seemed to be from the agencies' own momentum, and sometimes it was driven by the policy of the government of the day. We saw the agencies dragging their feet on joint management strategies, and perhaps this bill partially explains that because it suggests that in the past there have not always been the opportunities at a statutory level to take up opportunities for joint management opportunities on lands of interest to Aboriginal people or traditional lands, some of which perhaps were not formally recognised as areas of native title interest. Some of my concerns, I guess, predate the native title framework that came out of the High Court judgement. Officers of the conservation agencies—the various parts of the weaponry of state and federal government—were, in many ways, antagonistic to the interests of Aboriginal people.

I want to contrast that to the relatively recent experience I had of watching the way officers of the Department of Environment and Conservation operated with the Aboriginal people of the Bunuba community about whom I was speaking last night; in particular, their involvement with the Bunuba people over the areas around Windjana Gorge during the preparation for their performance of their play, *Jandamarra*, at Windjana Gorge in the national park near Lillimilura, the old police station there. It seemed to me that the officers of the department had gone absolutely out of their way to make that whole experience a stunning success. Leaving aside the legislative framework that previously existed, or will come into existence following the passage of this legislation, my previous experience of the department at senior levels and of ministers who had led the department was in dramatic contrast to the wonderful way that local officers of the Department of Environment and Conservation on the ground were working with the traditional owners of that land—the Bunuba people. They were collaborating with them in a national park to ensure that the Jandamarra story—those extraordinary historical events—was presented and performed in the Kimberley some 120 years after the real-life events that occurred in the lives of the Aboriginal people in the Kimberley and in the wider community of Western Australia. There, in that national park, we saw the names of Aboriginal people who had grown up on their landholdings in the 1800s, and then those of the early station people. The Aboriginal people's names would have been called out in their communities by their parents and their families, and then they got caught up in, eventually, the resistance that Jandamarra—“Pigeon”—unsuccessfully led to resist the incursion of the station people into their country. We

can only imagine the names of Ellamarra and Jandamarra, and all the other Aboriginal names, being called out, and then 120 years later they were again being called out into that landscape, in that valley, in a moving and poignant retelling and recapturing of an extraordinary period of Western Australia history.

That whole performance, widely attended by the Aboriginal community, widely attended by people from all over the region, and visitors from all over the country, and beyond, in that national park, right beside Windjana Gorge, was an extraordinary testimony to the new skill of the departmental officers in collaborating with the Bunuba people in that landscape. Now, however that happened, whether it was by virtue of the skills of the local officers or the leadership of the regional office or of the office as a whole, or even if it came from the minister—wherever it came from—it was an extraordinarily triumph. It certainly augers well for the deployment of this legislation for mixing and matching the interests and the values of Indigenous people into landholdings that also have conservation value, and value to the wider community, and tourist values as well in the case of Lillimilura, the old police station of Bill Richardson fame, and the adjacent national park.

I think the only misbehaviour that occurred on the day seemed to be that of the Deputy Premier, who was seen to have commandeered a CALM vehicle to take him from Tunnel Creek back to Derby, following the loss of his keys in Tunnel Creek.

**Mr W.R. Marmion:** You'd need a torch if you lost them in there!

**Mr T.G. STEPHENS:** Well, apparently he could not find his keys, and it would appear, from reading that reputable part of *The West Australian*, "Inside Cover", that a CALM vehicle, or a conservation vehicle, was commandeered by the Deputy Premier as he hurtled back to Derby from Tunnel Creek, because he had lost his keys in Tunnel Creek. But everyone else—other than the Deputy Premier—seemed to have been well behaved, and collaborated in this great performance there. That augers well for the future of the joint management of lands.

[Member's time extended.]

**Mr T.G. STEPHENS:** The Bunuba people have other lands in that valley, pastoral landholdings, which I am sure will be of wider conservation value to the wider community—the Australian community, and the Western Australian community—and that can add to the conservation estate of Western Australia. These lands will, in my view, be more certain to be included in the strategies for conservation as a result of these recent successes of collaboration that were on display. This is a great model of success that the department can take more widely beyond the Fitzroy Valley to the other Aboriginal owners of lands, whether they be pastoral lease-holdings, or lands in which the Aboriginal people have either native title interests or interests by virtue of their management of Aboriginal reserves held by the Aboriginal Lands Trust, or whatever other form of land title it may be.

There is now a story on display from this particular experience in the Fitzroy Valley that I think can be built upon. It is a great triumph. It is in dramatic contrast to the fights that the Gidja people, for instance, had to have in the East Kimberley, when they were trying to point out the bleeding obvious—that they had an interest in the Purnululu lands, which later became known as the Bungle Bungles. As people with an environmental interest and a tourism interest started to discover the lands of the Gidja people in the early 1980s, the Gidja people were saying, "Hang on. This is our land, and we would not mind being consulted and included in the strategies for the creation of this national park." In my view, very limited success was achieved in that area, after huge skirmishes, great fights, and great reluctance on the part of the departmental officers, and also on the part of the ministers who led the department, both within Labor governments, Labor administrations, and within the administration of the Liberal Party of the day.

So I am pleased to think that things are moving on, and have moved on, and that this statute will create additional opportunities to cement these prospects into the future in the electorate that I represent—the Pilbara region. In the Pilbara, we have a combination of opportunities, because we have pastoral leases that are held by Aboriginal people and pastoral leases that are held by non-Aboriginal people. Those pastoral leases have conservation values that should be taken up and embraced in strategies of collaboration and cooperation between the land-owning groups and the people with responsibility for the conservation estate. It is welcome indeed that a framework to do that has now been put before the house. There is now an opportunity, in some of the very large national parks that exist in the Pilbara region, for the participation of native title groups, and for the adjacent pastoral leases held by Aboriginal people, and, as the minister says, also by non-Aboriginal people, to be included in these strategies.

For me, I do not think this framework is the panacea for responding to these challenges. My experience, unfortunately, is generally of some pessimism about structures and departments that rely upon policy making and program delivery from remote capitals, as we are here in Perth, or in Canberra, and that a better model is yet to arrive in this Parliament of how to secure well-resourced and well-supported local decision making, whereby the collaboration around conservation values, environmental values, Indigenous interests and wider community interests can be better embraced and enhanced by local and regional decision making. That is a day yet to come—a framework that we are yet to see on offer in this Parliament. I hope that we will see that without too

much more of a delay. But I see no signs of it emerging, either from Canberra or from Perth, in wanting to support people in regional communities to celebrate and protect the value systems they hold dear as core to the circumstances that they face.

**Mr W.R. Marmion:** Before you sit down, in terms of your question earlier, I just draw to your attention that clause 40 is the one to look at. Clause 40 provides for the insertion of new sections 103A and 103B, which are quite descriptive. Those sections detail what activities can be conducted by Indigenous people for traditional purposes. So, they provide a defence under the conservation act.

**Mr T.G. STEPHENS:** I thank the minister for pointing out that clause. I have had a quick look at the act as well, the principal act, which has just been passed to me by people from the chamber, and I concede, without studying it, that there seem to be opportunities—but I am sure the member for Warnbro will be able to teach me how to use the short title debate to tease out these issues —

**Mr P. Papalia:** The member for Warnbro was sat down when he tried to do that!

**Mr T.G. STEPHENS:** But no doubt the member for Warnbro will have worked out how I can use the short title debate to extensively canvass these issues, after I have studied the bill in more detail following the conclusion of the second reading debate.

**MR M. McGOWAN (Rockingham)** [4.29 pm]: I rise to add my thoughts to the Conservation Legislation Amendment Bill 2010. I appreciate the extraordinary knowledge of the member for Pilbara on these issues and about Indigenous people and their culture. I do not think there has ever been a member of this chamber with that depth of knowledge and experience.

**Mr T.G. Stephens:** I defer to at least a couple of others.

**Mr M. McGOWAN:** They are not here at this point. I digress. I spent a bit of time with the member for Pilbara in the Kimberley and Pilbara regions recently. He demonstrated an extraordinary depth of knowledge of these issues, people's history and so forth, which was really quite remarkable. Anyone who has travelled with him would say exactly the same thing.

I return to the legislation. We are supportive of this legislation. It had its genesis during the period of the former government. It has finally come to fruition and is about to be passed by Parliament. Formally providing Aboriginal people with a say in the management of the conservation estate in Western Australia by way of legislation is a good thing. Informal practices in the past have allowed that, but formally putting them into law is a good thing. I want to use this speech as an opportunity to talk about other issues that have been the subject of considerable attention in recent days. The national heritage listing of the Kimberley is an issue I would like to discuss when talking on this bill because it relates to conservation. The Kimberley is one of the great wilderness areas remaining on earth. It is an absolutely beautiful, remarkable part of the world. It is largely undisturbed. It is an icon. All Western Australians should be proud that we have a region of that level of beauty remaining for us as a legacy. I think we would all agree with that. I spent a week in that region with the member for Pilbara. Flying over this area, I realised how amazing it was. Like the member for Warnbro, in my younger days I spent time up there on a Navy patrol boat travelling around some of the islands and the offshore areas of the Kimberley. It is a breathtaking part of the world. There are not that many areas like that left. In the early twenty-first century the world has basically lost most of those areas. It is very important that they be preserved.

I am in the unique position in this chamber to have been a former environment minister and now shadow Minister for State Development so I have had a perspective from both sides of this debate. The mining industry has managed to co-exist fairly well historically with the conservation estate. When we look at the most disturbing practices when it comes to the environment, my firm view is that it is not mining. Some of the most disturbing practices when it comes to the environment, particularly if we look at places closer to Perth, can be seen in the Wheatbelt. The most dramatic impact on our state's natural environment occurred during the significant clearing of the Wheatbelt. I do not think most people would disagree with that. The problems with salinity, erosion, water quality and the like in that part of Western Australia have had one of the most dramatic impacts on the state's environment. Essentially, it all happened post the Second World War in a period of about 20 years. A bit of it went on beforehand but it mainly occurred during that period, and maybe in the 1930s as well. A remarkable effort was undertaken to create farmland in that part of the world. I acknowledge that it has been very important for those communities. If we want to look at the principal impact on our state's environment, we need to look at some of the practices of introducing exotic species into the state. When we look at some of the mining practices that have gone on in Western Australia, we see that they are mere pinpricks in the landscape compared with some of the other activities that I just mentioned.

In any event, the commonwealth announced yesterday that a large part of the Kimberley would be nationally heritage listed. We saw the response from the state government. The Premier was out there already. He has polling that says that to retain his popularity, he needs to attack the commonwealth no matter what. He did that with the national disability insurance scheme. He subsequently backflipped. I think he went a bit far on that one.

Basically, his view is that we should attack the commonwealth no matter what because he believes, and the polling tells him, that will enhance his popularity. He comes out, irrespective of the argument, and attacks the commonwealth no matter what. The commonwealth has a lot to be attacked for at the moment. As we noted with the national disability insurance scheme proposal, attacking the commonwealth when it is trying to do something to enhance the lives of people with disabilities is a bridge too far. It was wrong, and he made a mistake in what he did. I subsequently saw him moderating his position over subsequent days, a bit like what occurred in the case of whether the Minister for Emergency Services kept his job. The Premier has moderated his position on that but yesterday he saw an opportunity to kick the commonwealth over national heritage listing of the Kimberley. I think he was wrong. National heritage listing and mining can co-exist. National heritage listing and human activity can co-exist. National heritage listing will ensure that those amazing values of the Kimberley are protected and preserved. I do not care what the polling on the commonwealth says. If it does something that is right, it deserves some support. If it does something that is wrong, it deserves some criticism. In that case, I think the Premier went too far.

I want to draw the attention of members to something else. On 25 June 2011, two months ago, we saw a press release from the Premier and the Minister for Environment. They did not speak about national heritage listing of the Kimberley but about World Heritage listing of the Ningaloo coast. In that case, the Premier did not talk about national heritage; he said that we have gone to Paris for World Heritage listing of the Ningaloo coast. He is objecting to the commonwealth saying that there should be some sort of overarching protection of the values of the Kimberley, but in the case of the Ningaloo coast, he has gone to the World Heritage Committee based in Paris to get recognition of the Ningaloo coast.

**Mr W.R. Marmion:** But there's a difference.

**Mr M. McGOWAN:** The minister should hold on. I will read out what World Heritage listing actually means. The federal government's Department of Foreign Affairs and Trade stated —

Heritage is our legacy from the past, what we live with today, and what we pass on to future generations. Properties on the World Heritage List have outstanding universal value in their natural and/or cultural heritage, and are important to all peoples of the world, irrespective of their location.

The Premier is not saying that the Ningaloo coast is a nationally significant area but it is a world significant area and therefore a committee in Paris, a subset of the United Nations Educational, Scientific and Cultural Organization, will have the right of approval of that particular listing. It means that the commonwealth can intervene under the World Heritage Properties Conservation Act 1983 to protect that area, as we saw in the Franklin Dam case in Tasmania in 1983.

**Mr W.R. Marmion:** We agree with that.

**Mr M. McGOWAN:** And so do I. I started it, or maybe it was Hon Judy Edwards. I progressed it in 2006. Admittedly, I had some objection. I had great difficulty with Ian Campbell, the former federal environment minister, who took the side of some of the pastoralists in the area who objected for whatever reason I cannot work out. No matter what was said about the value of the area, he said that if the pastoralists object, the Lefroy family, two women living on a pastoral property just south of Coral Bay, there is no way he will support it. I took a different view.

**Mr V.A. Catania** interjected.

**Mr M. McGOWAN:** I am not listening to the member. The short-lived member for North West can make his speech in a moment if he wants to. The commonwealth said that it would not progress World Heritage listing if the pastoralists object. I took a different view; the property is owned by the state. The property is the state's; it is a lease. If this area is worthy of World Heritage listing, it should be listed.

**Mr W.R. Marmion:** And it was listed, but all the pastoral areas weren't listed as it turns out.

**Mr M. McGOWAN:** The good thing is that the bulk of the area is now listed. It was listed because a different federal government came along, the state government progressed it and it is a good thing. I am pleased that the state government progressed it. The government's original intention was to list 710 000 hectares, including Ningaloo Reef, Cape Range National Park, a coastal strip of 260 kilometres, adjacent dune fields, marine areas, islands and the like. The government went to list 710 000 hectares of this region. Subsequently, a smaller area of 604 000 hectares was listed, not by Canberra but by UNESCO based in Paris. That enables the commonwealth to intervene under World Heritage laws to protect the values of that region. However, in the case of the Kimberley, the government takes a different view. Admittedly, the Kimberley is bigger; the listing is bigger—that is true. I have to say that the amount of protection offered by a World Heritage listing is greater than the amount of protection offered by a national heritage listing. World Heritage listing has the authority of an international treaty, a world body and an act of Parliament in Canberra. Basically, World Heritage is a major elevation above national heritage listing. It is a double standard.

**Mr W.R. Marmion:** No, it's not.

**Mr M. McGOWAN:** It is a double standard.

**Mr W.R. Marmion:** Ningaloo is different from the Kimberley.

**Mr M. McGOWAN:** The Kimberley is beautiful, Ningaloo is beautiful and they both deserve protection. That is not to say that there cannot be other activities, which I think is what the federal minister argued. It is not to say that there cannot be other activities.

**Mr W.R. Marmion:** A part of the Kimberley could be in World Heritage.

**Mr M. McGOWAN:** I will inform the minister of something: part of the Kimberley is World Heritage-listed. There are three World Heritage sites in Western Australia: Shark Bay, Purnululu and, now—on this government's watch; it commenced on ours—part of Ningaloo Reef and Cape Range National Park.

National heritage listing adds another level of protection for the values of the Kimberley. It will not stop pastoral activities or mining activities. It simply means that if something major that is inconsistent with the values of that magnificent region comes along, the commonwealth may be able to intervene under law to protect it. World Heritage listing is an elevation above that, and the government recently World Heritage-listed part of the Ningaloo coast. Mind you, parts of the Ningaloo coast and the offshore area are prospective. Therefore, mining activities might be impacted by that listing.

All I am saying is that the government cannot have it both ways. Polling tells the government that attacking the commonwealth is something that wins it support, and that is what it is up to.

**Mr M.J. Cowper:** You don't need polling for that.

**Mr M. McGOWAN:** The polling is sitting on the Premier's desk. Someone does not have to be a genius to work it out, to be honest. I would not have needed polling to tell me that! In any event, I think there are probably, as I have said before, people marooned on islands in the Antarctic who could tell us that, and they do not need the polling to tell them that. However, that is the strategy. It is gross hypocrisy and the government has adopted a double standard.

I will use this opportunity to talk about another matter—namely, James Price Point. Today I asked a question of the Premier about James Price Point, which is an area in the Kimberley that is not incorporated in the national heritage nomination because it was not recommended by the national heritage committee. Therefore, the commonwealth has not attempted to list it; I doubt it will. However, I have been to James Price Point. I went to Broome recently and I saw what is going on in the Broome community. I recommend that members who have not been to Broome go and have a look at exactly what is going on. Broome is a nice place to go to, but members will be amazed by the level of disharmony and dissatisfaction in that community with what has gone on with the decision. People can drive the streets of Broome and see big “no gas” signs hanging over people's fences. In a political campaign we often see signage around the place. Ordinarily, it is on street corners, public property, parked somewhere or hammered in on a bit of grass somewhere.

**Mr M.J. Cowper:** There's a neon sign in Kalgoorlie—a big one.

**Mr R.H. Cook:** Is that for the gas hub in Kalgoorlie?

**Mr M.J. Cowper:** Not that.

**Mr M. McGOWAN:** I do not know anything about that, sorry.

**Mr M.J. Cowper:** It was in the paper. There was a big neon sign there saying, “No carbon tax”.

**Mr M. McGOWAN:** That is slightly off point —

Several members interjected.

**Mr M. McGOWAN:** The point I am making is that—can I seek a brief extension, Madam Acting Speaker; he has interrupted me!

[Member's time extended.]

**Mr M. McGOWAN:** I need the additional time to gather my thoughts!

My point is that if people are hanging these signs over their own fences, the person or family living in that house agrees with it, which is a bit different from a normal campaign. People can drive the streets of Broome and see these signs everywhere. The “no gas” signs are on every block and people are hanging big signs over their fences. When I meet people up there, they have considerable anger. Concern about what has gone on has reached the level of anger. Again, I think this situation has been amazingly and comprehensively mishandled by the Premier.

Going into a little history, the Northern Development Taskforce was set up in 2006–07. That task force was given considerable resources and incorporated the Kimberley Land Council, the environment groups, business—everyone.

**Mr I.C. Blayney** interjected.

**Mr M. McGOWAN:** It was a large amount of money, but I will get on to that in a moment. I will not be so arrogant as to say, “I’ll give you a lesson” —

**Mr P.C. Tinley:** Put the cameras out!

**Mr M. McGOWAN:** And to stop the cameras; I will not be so arrogant as to suggest that! I will tell the house as dispassionately as I can what happened.

The Northern Development Taskforce was set up and incorporated all those groups. I think that Broome is a very special place. If we were to ask what are the two iconic communities in Western Australia, apart from Rockingham, we would have to say Margaret River —

A member interjected.

**Mr M. McGOWAN:** Apart from Rockingham, Willagee and Kwinana, we would have to say Margaret River —

**Mr M.J. Cowper:** Woodanilling.

**Mr M. McGOWAN:** Yes, and Woodanilling. We would have to say Margaret River and Broome. Being fair, apart from our own electorates, I think most people would say the iconic communities of great beauty would be Margaret River and Broome. We saw what happened with the coalmining proposal in Margaret River. The government suddenly intervened to ensure that people understood that it was not supportive of a coalmining proposal in Margaret River. It is an iconic community, I must admit, but the government intervened to do that. In the case of Broome, which I think is one of the nicest places on earth, to be honest, we can see why people there might have been quite concerned about the future. I think the current Leader of the Opposition set up what was called the Northern Development Taskforce to bring everyone together and to work out a site for a gas precinct in the Kimberley if possible, and try to get something that was agreed because of the potential for disharmony in the community. That task force was established, progressed and started working on sites. I think when the former government lost office in late 2008, it was down to four or six sites around the Kimberley that potentially could be agreed to for use as a gas hub. I think the task force originally started with 43 sites and the process narrowed it down to about four or six sites. That process was abandoned. All the people who were involved in that process and who had invested their time in it and the community were told that they were no longer required. The Premier went there and said that he had selected a site. He said, “I’ve flown over the area, I’ve found a site and it’s going to be, without any shadow of a doubt, North Head. We’re going to put it at a place called North Head, up on the Dampier Peninsula. That’s the site it will go to.” What happened then was that a few facts came out about it not being possible to build a harbour there, and I think there were a few other technical issues. The Premier then said a week or a fortnight later, “Okay; I’ve reconsidered and it’s now James Price Point”.

What did that do? That sent a message to everyone up there that their contribution was not valued. It sent a message to everyone who had been involved in this process that whatever they thought did not matter, and I think it created a lot of anger in the community. That anger was then significantly exacerbated when the Premier threatened compulsory acquisition of the land. Members have to realise that a lot of people in the Kimberley, both Indigenous and non-Indigenous, are very aware of the history of traditional lands in that part of the world and become very concerned when those sorts of threats and that sort of intimidation are held out. So people got even angrier when those two things happened.

We have recently seen a conclusion of that process with Aboriginal people there, but I think that a lot of people in Broome, in particular, are very concerned about what will happen to them as a consequence of this project. They are very worried about what will happen to them, and I share their concern about the cost of living. I share their concern about Broome, the community that they know, being converted into another Karratha or Port Hedland. Karratha and Port Hedland are nice places to live—although I was in Port Hedland the other day, and to rent the smallest of houses costs around \$2 000 a week.

I am saying that these are real concerns for these people, and the glib assurances that are being given by the government are not good enough at all. I think there needs to be a great deal more sensitivity shown to the concerns of the community of Broome. The people in Broome love their community, and I think they have every right to be concerned about what could potentially happen to the tourism industry, the cost of living, the cost of housing, the cost of rent, their ability to retain public servants in that community and, indeed, the local environment. All those issues could have been handled better if the community had been taken with the government on that decision, but it was not. If the community had felt that it had been involved, there would perhaps have been a different outcome from the outcome that has now taken place. There is growing disharmony in that community, and to suggest that it is only tourists who are opposed is just plain wrong and arrogant. I went

to the markets in Broome with the member for Pilbara and we spoke to some local stallholders. I met a woman who is a stalwart of one of the local churches, and she had just been arrested. She told me that she had lived in Broome for 30-something years and that she was a very senior person in one of the local churches. She had never been arrested in her life, and she was going to show them by pleading not guilty. Her view was that they could take her to court and keep arresting her for as long as they liked, because she was not going to cop what had been done and what was being done to her community.

Another fellow ran a stall that sold breakfast pancakes. He had lived there for 27 years, and he did not want the development. In fact, I did not meet anyone who was particularly happy —

**Mr J.E. McGrath:** What about the member for Kimberley? Did you ask her?

**Mr M. McGOWAN:** The member for Kimberley? I have spoken to the member for Kimberley and she is supportive, but I do not know whether the member for South Perth has listened to what I have been saying. He is looking a little dozy; it has been a long week, I know. If he does not think that that community is —

**Mr J.E. McGrath:** It's a divided community.

**Mr M. McGOWAN:** I think it is heavily opposed—that is my impression of most of the people in Broome—and that needs to be resolved. This is a town of 15 000 people who love their town, and they are really angry and really upset about what is going on, and they feel as though they have been steamrolled. It did not have to be thus.

**Mr J.E. McGrath:** I've got a solution. I think Woodside should build an airstrip out at James Price Point and fly straight in and straight out. It's only a thought.

**Mr M. McGOWAN:** I am suggesting to members that there is a major problem. I have been out to James Price Point and I do not think the protesters are all tourists and ferals, as the Premier has implied. The Premier has already defamed a conservation group, the Wilderness Society; he got that one wrong. I do not think he fully appreciates the feeling in the community of Broome about this. It did not need to be thus; I think this has been mismanaged the whole way along, and I am personally quite sad about it because, like it is to most people, Broome is one of my favourite places in the world, and I am very sad about what has gone on and how people feel they have been mistreated in that community. In today's answer from the Premier, I did not hear any sympathy, empathy or understanding of people's feelings up there. As I said, the feelings and views of the lady who had lived there for 30 years and who was a stalwart of a local church and had been arrested, along with her friend, and the feelings and views of everyone else I met up there need to be taken account of.

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.

#### JOINT STANDING COMMITTEE ON AUDIT

##### *Council's Message*

Message from the Council received and read requesting concurrence in the appointment of a Joint Standing Committee on Audit.

*House adjourned at 4.58 pm*

---