Legislative Council

Thursday, 3 May 2012

THE PRESIDENT (Hon Barry House) took the chair at 10.00 am, and read prayers.

ELECTRICITY CONCESSION

Petition

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [10.02 am]: I present a petition containing 4 409 signatures and couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned residents of Western Australia support the electricity concession implemented by the State Government of Victoria for the benefit of its citizens. This concession extended to Seniors Concession Card holders who are holders of a Centrelink pension Concession Card, a Centrelink Health Care card or Department of Veterans' Affairs Gold card. To quote the Hon. Mary Wooldridge MP, Minister for Community Services: *"Under the Annual Electricity Concession, low-income households will see a year-round saving of 17.5 per cent on their electricity bills."*
>
> We particularly beg the Government of Western Australia to ensure that all residents of retirement villages meeting the criteria described here—or any similar qualifications nominated by the Government of Western Australia—be assured of fair and equitable application of any benefit which may result from this petition.
>
> Your petitioners therefore respectfully request the Legislative Council to recommend that the State Government of Western Australia implement a concession akin to that extant in Victoria.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 4474.]

STATE TRAINING PROVIDERS

Statement by Minister for Training and Workforce Development

HON PETER COLLIER (North Metropolitan — Minister for Training and Workforce Development) [10.04 am]: I would like to share with the house some recent market research data regarding Western Australia's state training providers. The 2011 student satisfaction survey has just been completed, and I can report that it shows Western Australia's state training providers are delivering what students need right across the state.

The survey of over 10 000 students showed that they are happy with their training and believe it improves their job prospects. The overall student satisfaction rate in 2011 was 88.4 per cent, which was a significant increase from 86.4 per cent in 2010. Overall satisfaction was at 84 per cent in 2004, and the 2011 figure is the latest in a steady increase over the last seven years. Ninety per cent of apprentices and trainees are satisfied with their training; 90.7 per cent of Aboriginal students are satisfied with their training; 91 per cent of regional students are satisfied with their training. Eighty-six per cent said their lecturers had a good knowledge of current industry standards and practices. Ninety-one per cent of employment-based students, including apprentices and trainees, believed the training provided by their workplace supervisors would improve their job prospects.

The state government is committed to developing a world-class training system, and one of this government's great achievements in the training sector has been the transformation of the public provider system into a network of autonomous institutes that are true centres of excellence for training. These state training providers now enjoy the independence to develop their own programs to best meet the training needs of industry. They have their own boards of management and are competitive in what is a very busy market, and are providers of high-quality training in Perth and, just as importantly, regional centres across the state. The positive feedback received from students reflects these improvements. These student satisfaction results prove that our approach to training works, and works well.

DOMESTIC VIOLENCE — STRENGTHENING RESPONSES

Statement by Minister for Child Protection

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [10.06 am]: Today's rally is a timely reminder of the devastating impact domestic violence has on our families and communities. This insidious problem affects Western Australian families regardless of wealth, ethnicity or religion. There are more than 39 000 incidents of domestic and family violence reported annually, and in 2011 there were nine DV-

related homicides in Western Australia—both confronting and saddening statistics. Strengthening the service system to offer greater protection to victims of family and domestic violence and stronger consequences for those who perpetrate violence is this government's priority, and since 2008 we have made significant inroads in this regard.

Family and domestic violence is a complex problem requiring a multi-agency response across state and commonwealth government departments in conjunction with the community sector. The current approach to family and domestic violence includes a focus on systemic reform through the implementation of an integrated response. Major family and domestic violence initiatives already underway include —

> the co-location of senior child protection workers in WA police stations across all 17 of the state's child protection districts, representing a $1.6 million investment in 2011–12;
>
> the implementation of the family and domestic violence common risk assessment risk management framework, supported by a comprehensive training program that sets a minimum standard for screening, risk assessment and risk management for all service providers across the state;
>
> family and domestic violence case management and coordination services operating multi-agency case management groups for cases involving family and domestic violence in 17 regions throughout the state;
>
> twenty-four hour domestic violence helplines offering access to crisis accommodation, counselling and support for women experiencing family and domestic violence, and trained counsellors to work with men who perpetrate violence;
>
> social marketing campaigns aimed at educating the community about family and domestic violence, and encouraging women to seek help if they are experiencing abuse. Examples of these include the Freedom from Fear campaign and the Youth Say No website;
>
> community awareness-raising activities, including the Respectful Relationships education initiative being delivered to schools throughout the state and annual events such as the silent domestic violence memorial march and White Ribbon Day, which gain further momentum each and every year;
>
> through the National Affordable Housing Agreement, joint state–federal funding of approximately $18 million per annum allocated to domestic violence accommodation and support services, including 37 women's refuges; and
>
> under the National Partnership Agreement on Homelessness, the state and commonwealth jointly committing $6.8 million over four years from 2009 to the Safe at Home and Domestic Violence Outreach programs, which provide a range of initiatives to help women and children remain in their homes following a family and domestic violence incident.

As I informed the house in August 2011 with the tabling of the mid-term progress report, the systemic reforms envisioned in the "Western Australia Strategic Plan for Family and Domestic Violence 2009–2013" are advancing well, with the progressive implementation of measures to ensure an integrated response and consistent service provision across government agencies and community service providers.

Our state's efforts align with the 12-year action framework set out in the "National Plan to Reduce Violence against Women and their Children". As part of our commitment to the national plan, a new WA family and domestic violence prevention strategy to 2022 is now being developed in consultation with the Family and Domestic Violence Senior Officers' Group, comprising members from across relevant government departments and the Women's Council for Domestic and Family Violence Services. This is expected to be released in June 2012 and will build upon the initiatives of the current state strategic plan to continue the program of reform over the long term.

This government has also been instrumental in ensuring that the vulnerable victims of family and domestic violence are afforded the protection they deserve by introducing a three-strikes rule for people who breach violence restraining orders. Not only are these provisions the strictest in Australia, they also send a clear message to perpetrators that their repeated violent behaviour will be met with a prison sentence. The Liberal–National government is also the first to endorse the establishment of a family and domestic violence fatality review in Western Australia. The review process will be managed by the Ombudsman's office and is expected to be operational by July 2012. It is hoped that the process will identify systemic issues and factors that contribute to domestic homicide with the hope of reducing the number of fatalities that we are unfortunately seeing at present.

While our government has made a great deal of progress in addressing the issue of family and domestic violence in our state, there is still much work to be done, including exploring the possibility for further legislative reform. I understand that the Attorney General's office has been engaged in productive discussions with the Women's Council for Family and Domestic Violence Services on this matter, and I am supportive of this process.

PAPER TABLED

A paper was tabled and ordered to lie upon the table of the house.

STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

Twenty-fifth Report — "Overview of Petitions" — Tabling

HON BRIAN ELLIS (Agricultural) [10.12 am]: I am directed to present the twenty-fifth report of the Standing Committee on Environment and Public Affairs in relation to the overview of petitions.

[See paper 4475.]

The PRESIDENT: Does the member, in accordance with standing order 189, wish to make a statement.

Hon BRIAN ELLIS: Just briefly, Mr President, to inform members that this report provides an overview of petitions that were finalised by the committee during the period 1 July 2010 and 30 June 2011 and that the committee has recently upgraded its website. The website has become a central source of information about the petitions tabled in the Legislative Council. If members and the public wish to follow a particular petition in more detail, they can follow all the submissions, government responses and documentation the committee had in front of it when it dealt with the petition. As I said, the report is a brief overview of each petition. Members can follow it more thoroughly on the website.

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

"Special Report" — Tabling

HON MAX TRENORDEN (Agricultural) [10.13 am]: I am directed to present a special report of the Standing Committee on Public Administration in relation to the fourteenth report, "Unassisted Failure". I would like to briefly speak to this special report, Mr President. This is an extremely important report.

[See paper 4476.]

The PRESIDENT: Does the member, as Chair of that committee, wish to move a motion following the tabling?

Hon MAX TRENORDEN: I was going to do that at the end of my address, Mr President.

The PRESIDENT: Do that now and then we will invite you to make your statement.

Motion

Hon MAX TRENORDEN: I move —

> That the report be adopted and agreed to.

The PRESIDENT: The question is that that report be adopted and agreed to.

Point of Order

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [10.14 am]: I do not wish to make a decision about that at this point of time. On the basis of the member moving that motion, can we hear from him and make a decision on whether or not to agree to the motion?

The PRESIDENT: The member, as Chair of the Standing Committee on Environment and Public Affairs, has moved that the report be adopted and agreed to. I invite the member now to make his statement, according to standing order 189, to give reasons why it should be agreed to and then we will put the motion.

Debate Resumed

Hon MAX TRENORDEN: I will quote from a parliamentary report that was tabled by the Speaker of the House of Commons in the United Kingdom. It is a report into News International and phone hacking. Members will quickly see the relevance of it. At page 6 it states —

> 8. The truthfulness of evidence given before a select committee, whether in written or oral form, is a cornerstone of the parliamentary select committee system. Erskine May, The Treatise on the Law, Privileges and Usage of Parliament, notes that "the House requires truthful evidence from witnesses and seeks to protect them from being obstructed from giving evidence".
>
> 11. So strong is the presumption of truth, and so seriously do most witnesses take the process of giving evidence, that it is not usual for select committees to administer oaths to witnesses.

It states further on —

> 10. As bodies of the House of Commons, select committees and their members share in the House's privileges and the same principles of contempt apply.

That is, if people mislead the Parliament there can be a question of contempt. The report continues —

> Witnesses found to have misled a select committee, to have wilfully suppressed the truth, to have provided false evidence and even to have prevaricated have all been considered to be guilty of contempt of Parliament in the past.
>
> …
>
> 11. The allegation that witnesses have misled the Committee is a grave one and the awareness of the potentially serious consequences of our conclusions for the individuals concerned has been an important consideration to us in our work.

That has been worldwide news in the past few days. On page 86 of the same report it also states —

> … as a result of our questioning, important changes to financial governance at News International have been made.

I say that, as a result of your committee, Mr President, the same rule should apply to Western Power.

This report addresses issues that the Standing Committee on Public Administration raised on the question of unassisted failure about individuals and corporations misleading a committee of the house. Your committee took that extremely seriously, Mr President. There are plenty of special reports at the back of the chamber. I ask members to read the letter that the committee wrote to Western Power and the response from Western Power to us, which, in short, is a capitulation of Western Power's position. Mr President, your committee's findings were QED. It was a very important decision and, I would say, a cornerstone in the history of this place. Mr President, can I have a couple more seconds because the first recommendation seeks consideration by you about a matter for the procedure and privileges committee?

The PRESIDENT: Standing order 189, as the house has adopted it, allows for a brief statement by the chairman of a committee subsequent to tabling a report, which is to be agreed to by the committee prior to delivery to the Council and is not to exceed three minutes. The house will need to make a decision to exceed the time in that standing order to allow me to allow the member to continue his remarks.

Hon MAX TRENORDEN: I would appreciate that, Mr President.

The PRESIDENT: You are inviting that. There will have to be a suspension of standing orders, and to entertain that option, somebody will need to move a motion to that effect.

Standing Orders Suspension

On motion without notice by **Hon Norman Moore (Leader of the House)**, resolved with an absolute majority —

> That so much of standing orders be suspended to enable the member another two minutes to address the house.

Motion Resumed

Hon MAX TRENORDEN: This is actually quite important, and I again urge members to read a copy of the report. The question of people coming before committees of this place and not being truthful, or even prevaricating in their evidence, is really important. The committee makes the point in the report that the Commission on Government was 20 years ago, and that it seems that in recent times there has been a lapse in the understanding of the responsibilities of people who come before Parliaments. Clearly, the representatives of Western Power failed, and as to the letter back from Western Power, which I am not going to quote because I do not want to take up the valuable time of the house, each member can read that response and measure for themselves the weight of that response.

The committee asks the chamber to consider the report, particularly recommendation 1, which states —

> The Committee recommends that the Legislative Council do refer this Special Report to the Privileges Committee to determine what action might be taken to ensure that Senior Executive Service personnel, and their equivalents throughout the public sector, who are to appear before either a House or a Committee of Parliament, understand the nature and consequences of appearance before parliamentary committees.

We think that is important. This particular inquiry on Western Power is not the only inquiry in which we have noticed that public servants do not always want to be direct. Most of it is about not giving a full answer, but we require a full answer. There is a matter for you there, and it is important. I thank the committee. It was a great effort by the committee and the staff; it was a very substantial report.

Point of Order

Hon NORMAN MOORE: As I understand, the member who made that statement is referring to a matter of privilege. My understanding is that those issues need to be dealt with as soon as they are raised, but the problem

we have is that we have not read the report. Mr President, I would seek your advice in respect to the privilege issue that has been raised and the consequences of the raising of that matter in relation to standing order 92.

The PRESIDENT: Members, the Leader of the House's point of order raises an important and interesting issue. Under the normal circumstances of standing order 92, if a matter of privilege is raised, it would have to be considered forthwith. In this case we are considering a committee report that allegedly involves a matter of privilege. The house has not had any opportunity to consider that committee report at this stage. If there is a matter of privilege arising out of it, it will arise out of the house's consideration of the report. I think in that way it does not technically come under standing order 92; it is a committee report. If, in the subsequent motion moved by the Leader of the House, this is adjourned for consideration at a later stage of that sitting —

Hon Norman Moore: Not at a later stage.

The PRESIDENT: Sorry; at the next sitting. Then if a matter of privilege is identified by the house, that would trigger standing order 92. Is that clear to all members?

Hon KEN TRAVERS: Mr President, because this is the first time we are dealing with this issue under these new standing orders, I want to clarify a couple of issues.

The first issue is that the report does not actually, in my view, seek to raise a matter of privilege; it seeks to make a recommendation for the Standing Committee on Procedure and Privileges to consider certain things, but not relating to how senior public servants should be advised about their obligations of privilege. It is not actually raising a matter of privilege in accordance with either standing order 92 or schedule 4 to the standing orders, whereby there is a test that would need to be met for the committee to report the matter to the house. I would have thought that if the committee was reporting to us that it had found, in accordance with schedule 4, that a matter of privilege had been raised, we would have received a different report. I think it is important that we clarify that so that members who sit on committees understand how they go about trying to raise a matter of privilege with the house.

The second point I make is that it would be my view on my reading of standing order 92 that even if the committee was seeking to raise a matter of privilege, it is not in the first instance an issue for the house to consider; it is an issue for you, Mr President, to consider under paragraph (4). You are then in the position to either rule immediately or advise the house that you will defer the matter and provide a ruling at your earliest opportunity. Again, that would, I think, suggest that the procedures that would be outlined are not for the house to consider; it is for you as the President to consider and simply advise the house how you intend to proceed, whether it is immediately or at some future stage. I imagine that in most cases it would be at a future stage, after you have had time to consider it. I ask those questions because I think it is important that we fully understand how the new standing orders will operate.

The PRESIDENT: I think all those points are relevant.

Hon MAX TRENORDEN: I just want to be sure that the house knows what happened. As to the report, we addressed some people who came before us and warned them that we were considering matters that we considered to be matters of contempt. The letter we wrote to them and the response we got gave the committee the opportunity to decide whether we would accept their apology. But there is a question among the committee. We are the servants of the Legislative Council. The question is: do we have that power? I would say that in reality we do not; that is a requirement of the Council. But I agree with Hon Ken Travers and with your own statements, Mr President, that this is slightly grey. But insofar as the committee was concerned, it was prepared to accept the apology. But we are a portion of the chamber; we are just five members of the chamber. The apology actually has to be accepted by, I would argue, the Council. It is a 50–50 question whether it is direct privilege or not, but I think it is a matter of privilege.

The PRESIDENT: All those points are relevant. This is the first I have seen of this report, and I am not a speed reader, as I suggest most other members of the chamber are not. I think it is relevant that the motion moved by the Leader of the House and agreed to by the house stands at the moment, but if there are other issues, as President I will examine the report and report to the house as soon as possible.

Debate adjourned, on motion by **Hon Norman Moore (Leader of the House)**.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Forty-seventh Report — "Shire of Kellerberrin Parking and Parking Facilities Local Laws 2011" — Tabling

HON SALLY TALBOT (South West) [10.29 am]: I am directed to present the forty-seventh report of the Joint Standing Committee on Delegated Legislation in relation to the Shire of Kellerberrin Parking and Parking Facilities Local Laws 2011.

[See paper 4477.]

The PRESIDENT: Does the member wish to make a statement under standing order 189?

Hon SALLY TALBOT: I have a further report to table and I will make a statement after I have tabled the second report.

Forty-eighth Report — "Town of Kwinana Extractive Industries Local Law 2011" — Tabling

HON SALLY TALBOT (South West) [10.30 am]: I am directed to present the forty-eighth report of the Joint Standing Committee on Delegated Legislation in relation to the Town of Kwinana Extractive Industries Local Law 2011.

[See paper 4478.]

Hon SALLY TALBOT: The Joint Standing Committee on Delegated Legislation recommends that the house disallow these two local laws because they have not followed the mandatory procedure to make a local law prescribed in the Local Government Act 1995. The committee has found itself in the position of having to recommend the disallowance of these local laws based on the noncompliance with steps in the section 3.12 procedure, with the Town of Kwinana being out of order by six days and the Shire of Kellerberrin by two and a half weeks.

The committee understands that these time frames are relatively minor in the overall process of making a local law, but the wording of section 3.12(1) is clear: if the procedure is not completed in the correct order, the local law will not be valid. This is the point at which the committee steps in to bring the house's attention to its concerns with the wording of section 3.12. When the committee first scrutinised these two local laws at the end of 2011, it found that the steps in section 3.12 of the Local Government Act 1995 were not completed in the correct sequence. Section 3.12 of the act explicitly states that a local government must follow the procedure described in this section in the sequence in which it is described. When the steps are completed out of order, the resulting local law is invalid and will be outside the power contained in the Local Government Act 1995 to make that local law.

The committee has previously recommended the disallowance of a local law that was also invalid, albeit for a different reason, and these two local laws raise the same issues of invalidity. The effect of a local law being invalid means that it did not ever validly exist in law, but this committee's role is to not only consider technical legal issues with regard to local laws. In this case, the committee is also recommending that these invalid local laws be disallowed so that they are removed from the public record and no person may inadvertently rely on a law that does not legally exist.

The committee has resolved to also recommend to the house that the Minister for Local Government amend the wording of section 3.12 to provide for flexibility in circumstances in which there is no adverse impact on the integrity of a local law. The committee feels constrained to have to recommend disallowance of a local law that has not strictly followed the section 3.12 steps even though this contravention has not resulted in any damage or adverse impact on any relevant stakeholder. The committee considers that the insertion of an element of flexibility or discretion in the procedure in section 3.12 would add to the act's workability while still maintaining the integrity of the local law–making process. In the case of the Town of Kwinana's local law —

[Member's time expired.]

Hon SALLY TALBOT: May I have a very short extension, please, Mr President; or may I table this piece of paper?

The PRESIDENT: The member seeks leave to table the remainder of that statement.

Leave granted. [See paper 4480.]

Forty-ninth Report — "Annual Report 2011" — Tabling

HON SALLY TALBOT (South West) [10.34 am]: I am directed to present the forty-ninth report of the Joint Standing Committee on Delegated Legislation in relation to the "Annual Report 2011".

[See paper 4479.]

The PRESIDENT: Does the member wish to exercise her right to make a short statement?

Hon SALLY TALBOT: I do, which I will read a little more quickly than the previous one!

The Joint Standing Committee on Delegated Legislation tabled its "Annual Report 2011", which outlines committee activities in 2011 and comments on issues arising from the committee's deliberations. The committee scrutinises a large volume of delegated legislation. In 2011, the committee was referred 601 disallowable instruments, including 370 regulations and 130 local laws or by-laws.

The committee continues to spend a significant amount of its time considering fees and charges imposed by subsidiary legislation to ensure that fees and charges are authorised and do not over-recover the cost of providing the relevant service. The committee has notified ministers that departments and agencies need to develop robust costing systems and that fee increases in 2012 will be closely scrutinised.

The committee remains concerned about issues arising from delegated legislation adopting or, as it is usually termed, "calling up" standards published by Standards Australia. It is an important principle that people have a right to know the law that they are obliged to comply with. Unlike acts and subsidiary legislation accessible at no cost on the internet, members of the public have limited access to standards. The committee recommends that the government requires departments, agencies and local governments to advise on their internet site where standards called up in subsidiary legislation can be accessed at no cost.

Finally, as I commented before in my statement on the committee's forty-seventh and forty-eighth reports, the committee takes issue with the strict terms of section 3.12 of the Local Government Act 1995. On many occasions, local governments have substantially, but not strictly, complied with the procedures for making local laws set out in section 3.12. In such cases, even when the technical noncompliance does not impact on the integrity of the law, the committee has no option but to recommend that the local law be disallowed. This unnecessarily impacts on committee, Parliament and local government time and resources. The committee awaits the government's response to its recommendation in the forty-eighth report that the Minister for Local Government amend the Local Government Act 1995 to provide for flexibility in section 3.12 in circumstances in which there is no adverse impact on the integrity of the local law. I commend this report to the house.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Seventy-first Report — "Education and Care Services National Law (WA) Bill 2011" — Tabling

Hon Adele Farina presented the seventy-first report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the Education and Care Services National Law (WA) Bill 2011.

[See paper 4481.]

GOVERNMENT FEES AND CHARGES — COST-OF-LIVING PRESSURES

Motion

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [10.37 am] — without notice: I move —

> That this Council condemns the Barnett government for —
>
> (1) its failure to keep household gas prices below the consumer price index level as was promised by the Court Liberal government when it sold Alinta;
>
> (2) its assault on the finances of Western Australian families through its harsh rises to fees and charges; and
>
> (3) its failure to provide affordable housing for Western Australian families, especially in the regions.

Earlier this week, on Tuesday, a further 8.3 per cent increase in the cost of household gas kicked in for Western Australian families. That is the fourth increase in the past two and a half years. Members will recall that there was an increase on 1 July 2009, again 10 months later on 1 April 2010, 16 months later on 1 August 2011 and nine months later, this week, on 1 May 2012. There is no pattern, no rhyme or reason to the timing of these changes. Householders were effectively given two weeks' notice of the increase in 2011. This week they got, I think, actually less than 24 hours' notice of an increase. There was no capacity for families to plan and save—there was just 24 hours' notice. This has resulted in a 57.5 per cent increase in Perth household gas bills and people are really struggling. It is too much for people. On the day of the announcement, Minister Collier said on ABC radio, "I feel like I spend more time announcing utility prices than anything else." In the words of Homer Simpson, "Doh!" That is because the minister does, and WA's families feel it too.

Members will be aware that the Western Australian Council of Social Service releases cost-of-living reports from time to time. Its most recent report referred to some 10 000 referrals to financial counsellors in the last financial year on top of the number the year before—that is, an extra 10 000 families sought financial assistance. The WACOSS report is clear about the reason that was driving those people to financial counsellors; namely, WA families are in financial trouble due to increased utility costs. It is interesting to consider who is being affected by utility costs. One measure—I do not think it is an entirely accurate measure—is the number of applicants for the hardship utility grant scheme. I have said this in the house before, and I will say it again: the hardship utility grant scheme was not designed for the purpose that it is being used now. Members might recall the dreadful circumstance of a young mother in Karrinyup who had a long history and range of serious issues. To keep her family warm one night, she lit a fire in the house and she and her two children died. It was a terrible, terrible circumstance. As a result of that case, the then Labor government responded by working with the Western Australian Council of Social Service to deliver a scheme that would address the difficulties faced by a category of people who, for a range of reasons, were at risk of being disconnected or had been disconnected. With no disrespect intended, I sometimes refer to them as the "frequent flyers", because they get themselves into

all sorts of difficulties for a combination of reasons, most commonly mental health issues, family and domestic violence issues, and drug and alcohol issues. For a range of reasons, everything falls apart around them. That is what we designed HUGS to address—it was for those people who are not able to manage their finances properly because they are dealing with a lot of chaos in their lives.

However, HUGS is now being used to support ordinary working families in Western Australia. The only relief available to ordinary working families is to go and beg the government for a hardship utility grant. It is now no longer being used only by people like that poor young woman in Karrinyup, or by seniors living on a fixed income; we know that from information derived from answers to questions I lodged earlier this year. I asked about HUGS applicants between February 2011 and February 2012. The number of HUGS applicants during that period was about 16 500. Of that number, the largest cohort of people receiving assistance were those aged between 18 and 54; not seniors. There were 1 206 applicants between 18 and 24; 4 331 between 25 and 34; and the biggest single cohort was people between 35 and 44—that is, ordinary working families—and there were 5 178. So just over 14 000 of the 16 500 applicants were of working age, not seniors, which is the demographic that people might first think are being hit hardest because they are on a fixed income.

Another interesting thing to note is the perception that most of the people seeking HUGS are living in Homeswest accommodation. That is not the case, either; the answers to the questions I asked show that the biggest single cohort of the 16 500 applicants was 7 090 people living in private rental accommodation, not social housing. They pay for their own housing, albeit that they rent; they do not have a mortgage. Some 9 039 of them also have children. We are talking about people who can afford the private rental market, and I will talk about that in a minute, because people have to be working at a reasonable wage to afford the private rental market; they will not get in the door in the private rental market if they are on minimum wage. Most of the people receiving HUGS are ordinary folks living in the private rental market, with kids, and aged between 18 and 54. It is a sad indictment on Western Australia that we just keep adding to the pressure of those people who are in that cohort.

I want to turn to the Anglicare report that was released earlier this week. For the second time, Anglicare has provided a kind of snapshot across Australia of the private rental market. If someone is living on a fixed income because they are on a benefit, or because they are on a low wage, what is their likelihood of entering the private rental market? The answer is: not very likely. On Saturday, 14 April Anglicare did its second rental affordability snapshot in Western Australia. It looked at online listings and assessed the properties that were listed on that date in terms of affordability and appropriateness for a number of different household types and assumed incomes. "Affordable rental" was being defined as that which constituted 30 per cent or less of a family's or individual's income, and that is the common indicator—if people are paying any more than 30 per cent of their income, they are deemed to be in housing stress.

The findings were really pretty dire, and I am sure members will have followed the public commentary made by the CEO of Anglicare, Ian Carter, and others during the course of the week, about what those numbers are showing us. Less than one per cent of rental properties are affordable for single aged pensioners, but with no disrespect intended to single aged pensioners, we have known for some time that things were really tough for seniors on a fixed income; these figures are starting to show us the impact this is having on working people. The report showed that the vast majority of rental properties on the market were not affordable for low-income earners. I am sure that other members, like me, have had people come to their electorate offices to advise them of the auction process that goes on in the rental property market. Real estate agents, to maximise the benefit for property owners, can advertise a rental property at, say, $550 a week, but if someone walks through the door and says, "Well, actually, I'll give you $600," they will take it; why would they not? The people we are talking about, who have been hit by this most recent gas price increase this week, cannot afford to go into an auction like that. If they do not fit the image of the neat young couple with two kids, they might as well not even bother turning up. If they are in any one of the categories that rental agents can be picky and choosy about, they need not even bother turning up, because they will not get a look in.

The Anglicare report shows us that working families cannot pay the rent. The day after this snapshot report was released, the government said, "Here you go, take this—the fourth increase in two and a half years; another 8.3 per cent on your household gas". Interestingly, it was announced just at the time that the temperatures started to change; I do not know about other members, but last week we got our gas heater out of the shed for winter because the temperatures at night had started to go down. We have not turned it on yet; I do not know whether we can afford to, and I am on a very comfortable salary. There are families who have to make that decision—families in Western Australia, which is the most prosperous state in this nation. We have families who have to make decisions about whether or not to turn on their gas heaters, and that is an appalling indictment.

The Anglicare report assessed some 3 828 private rentals across the state, and only 29 of those properties were affordable for people on benefits or pensions. For the first time, the capacity of minimum wage earners to pay market rents was also included in the review, and less than two per cent of the market was affordable for those people. Fifty or 60 properties were available to them out of 3 828. It is astonishing. I am sure my colleagues will

touch on this because I am not sure I will have time to do it, but in the north of the state not a single property was found to be affordable to families, including those with two earners on a minimum wage—not a single property. The average weekly rent across the Pilbara and the Kimberley was a staggering $1 374 per week. That is the average. I have heard examples of rents that are much higher than that and I am sure other members have as well.

I want to just go back to the promises that were made when the Liberals were in government last time—the Court government—and Alinta was sold. What was put to Western Australians at the time was that the benefit arising to the state from that sale included, according to Hon Norman Moore from *Hansard* of 14 October 1999 —

> … delivering lower gas prices to consumers; facilitating more consumer choice through increased competition; …

Who else can we buy gas from? Is there anybody else we can buy gas from? I do not think so. Hon Norman Moore also told us back in 1999 —

> The objectives for the sale of AlintaGas have been set within the context of the Government's broad objectives for the energy sector … with continual improvement in services to customers, reduced energy prices …

Hon Norman Moore also told the house back then —

> The sale of AlintaGas is the next logical step in the process of energy reform in Western Australia … its major objectives are —
>
> > to reduce energy prices in the State;

He then went on to tell the house —

> There has not been any evidence that private ownership … translates into higher prices to customers or any reduction in the availability of gas to meet customer needs.

He also went on to make the point that the regulation making power—members will be interested to hear how this was being used —

> … will also enable regulations to be made which provide for a cap on tariff increases for residential customers post contestability, to prevent tariff shock if effective competition does not emerge in the residential market …

Hon Norman Moore went on to say on 15 December 1999 —

> Post July 2002 it is expected that the average price rise will be around the CPI and for certain classes of customers it is expected that there will be significant falls in the price of gas under the combined impact of deregulation and privatisation.

By the time the bill had come to this place it obviously had been through the other place, where the bill was handled on behalf of the Liberal–National government by one Hon Colin Barnett. What he had to say can be found in *Hansard* of 16 September 1999 —

> In reality, we expect the average price rise to be around the CPI and, for certain classes of customers, we expect there to be significant falls in the price of gas under the combined impact of deregulation and privatisation. We expect to see continuing real price declines for householders.

He went on to say —

> The estimation from the financial consultants is that the small business sector will be the big winners and the main beneficiaries of this privatisation and deregulation. It is anticipated … in real terms, small businesses will receive a 47 per cent reduction in gas tariffs. I stress that consumers are protected by market competition, by the regulatory regime already established under the national access code and are further protected by price controls to be implemented.

This was said by the now Premier, who earlier this week said that he has nothing to do with gas prices. He said, "I don't know what you're talking about. Of course I have nothing to do with setting the price!"

Hon Ken Travers: Maybe he was asleep in the cabinet meeting in which they did it.

Hon SUE ELLERY: Maybe. But he did tell Western Australians back in 1999—he stressed to consumers—that they would be protected by market competition and by a regulatory regime, and further protected by price controls. He said that all those aspects would look after consumers. The way he and his energy minister today have looked after consumers is by telling them that they can have their fourth increase since 2008, when this government came into power. That is the way consumers will be protected! Gas prices are not the only thing impacting on consumers. The price of electricity has increased by 57 per cent. At the same time, there have been

increases in other fees and charges across the board. Also, some assistance for families has been withdrawn, such as removing assistance for parents whose children are at school through the It Pays to Learn program, which was put in place by the previous government. Motor vehicle costs have gone up, utility charges—electricity, water, gas, sewerage, drainage—have all gone up, public transport fees have gone up, the emergency services levy has gone up and stamp duty on general insurance has gone up as well. The average household bill under this government just continues to increase. At the same time we know that the divide between those who are doing very well out of the current prosperity from the resources boom and those who are not continues to grow. All the research from around the world says that the bigger that divide gets, the worse inequity and inequality there is in the community. The bigger the divide gets, the more those people who are not able to take advantage of the resources boom will start to fall off the system—their children will start to fall out of school or will do less well in school. All social indicators say that the bigger the divide between the rich and the poor in a community, the worse the social problems will be. While we will have legislation after legislation saying that the way to address antisocial behaviour and law and order issues is to lock up more people, all the research from around the world says that if we address the gap between the rich and the poor, we will eliminate those problems. What is this government doing in the most prosperous state in one of the most prosperous nations in the world? It is adding to the burden on ordinary working people. The majority of the people who now have to seek hardship utility grant scheme payments are young families who live in the private rental market. We are squeezing and squeezing them. The effect on those families is too much to bear.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [10.56 am]: The Liberal Party certainly will not be supporting this motion. I would like to go through both areas, particularly in my area of responsibility in terms of gas and gas tariffs, and also with regard to electricity. Hon Robyn McSweeney is going to talk specifically about hardship allowance payments and I know that Hon Wendy Duncan will make a contribution on regional housing, so that we cover all areas of the motion.

I take on board what the Leader of the Opposition said with regard to making announcements on tariff increases. I do not like it. I genuinely do not like it. It is one aspect of my job that I do not like. It is not as if I sit down with my cabinet colleagues every Monday to work out a way in which we can screw Western Australian householders for as much as we possibly can. That is not what I want to do. That is not what we want to do. We do not want to do it.

Hon Sue Ellery: Then stop doing it!

Hon PETER COLLIER: I did not say a word when the Leader of the Opposition spoke. I ask her to show me the same respect.

I do not want to have to do it. The simple fact of the matter is that the Liberal–National government was faced with dealing with the irresponsible attitude that the Labor government had had towards the entire energy sector during its time in office. Let us just face reality. Prior to the last election there was a gas explosion on Varanus Island. What was the attitude of the Labor Party towards that? It was to tell people to turn off their stoves and turn off their heaters. What was its attitude towards electricity? We ran out of electricity. What was its attitude towards tariffs? Its attitude was to not worry about it and to not put them up, as they could be bailed out from the government coffers. That was the attitude of the Labor Party. I inherited, quite frankly, a balls-up with regard to the energy sector. We have done an enormous amount to overcome the deficiencies in all those areas. One of the legacies of that absolutely irresponsible attitude of the Labor Party to the energy sector was the disconnect between electricity prices and the cost of producing and distributing electricity. There were also some inherent issues with the gas market that we had to address. A lot of it was out of our control, quite frankly. There were issues with Babcock & Brown when it took possession of Alinta. It had issues resulting from the global financial crisis, and that brought inherent problems. There are issues with regard to gas. Again, the Labor Party had an irresponsible attitude to it.

In its last year, the Labor government said gas prices would increase by 10 per cent. That was absolute nonsense.

Hon Ken Travers interjected.

Hon PETER COLLIER: Do you mind! Just calm down! You will get your chance in a minute.

The DEPUTY PRESIDENT (Hon Col Holt): Order, members! I listened closely to what the Leader of the Opposition said and there were no interjections at that time, so we will allow the minister on his feet to continue.

Hon PETER COLLIER: I obviously struck a raw nerve; there is a bit of sensitivity on the other side of the chamber.

The Labor government said there would be a 10 per cent increase in gas prices. It was not a 10 per cent increase at all. In some households, the increase was up to 50 per cent. The Labor government proposed a stepped increase. The first step was to increase prices by four per cent; the second step by 45 per cent and the third step by 79 per cent. It was not a 10 per cent increase at all. Last year this government said there would be an across-the-board 10 per cent increase. Might I point out that that 10 per cent last year was not what Alinta Energy asked

for. Alinta asked for an increase of 30.2 per cent. That was unpalatable to me, as Minister for Energy, to the cabinet and to the government. We could not impose that increase on Western Australian householders. That came at a cost to Alinta, as a private company, which made Alinta very vulnerable. In fact, that cost was around $25 million. This year we had exactly the same scenario. Discovering, extracting, processing, distributing and retailing the gas comes at a cost. It is a regulated market. We do not sit and decide what we are going to do. We do not say that we are going to have a five or 10 per cent increase. We take advice from the regulator on the distribution component. We take advice on the cost of the gas, which continues to increase. We take the combination of retail and processing costs and we put them together to come up with a recommendation. We allowed for an increase of 8.3 per cent, which for an average user is 90c a week, or around $47 a year. In some families this is extreme; I understand that. It does come at cost to families, and the government understands that, and as a government we wanted to make the increase as minimal as we possibly could. We did not give Alinta what it wanted, and there will be continuing cost imposts with gas and repercussions for Alinta.

The government has to do what is good for Western Australian consumers and householders at the same time as ensuring the financial viability of Alinta. We came up with what we thought was a fairly moderate increase. From that perspective, that is the justification for the increase. As I said, we did it for the least financial burden we could possibly impose on Western Australian householders, and at the same time countering that with the notion of ensuring the financial viability of Alinta. In addition, we have done as much as we could for the gas market to ensure a more vibrant and dynamic gas sector in Western Australia. That is why, through this house, with support from all parties, we passed the Gas Services Information Bill just prior to the last break. This provided for a gas bulletin board and a statement of opportunity, for which all sectors of the gas market have been calling for years. This government has done that. That was a recommendation of the Gas Supply and Emergency Management Committee. We have runs on the board, and that will make it a much more vibrant and dynamic market.

The government has also provided for gas storage with the Mondarra gas facility. If we have another situation in which there is a trip in the pipeline, we will have a contingency plan. We will not have the energy minister racing up to Varanus Island saying, "Oops, we've had an explosion!", which is what happened in the last administration. This government took this on board and did something about it. We are providing gas security for Western Australians, while at the same time ensuring we keep costs at a minimum. That is what this government is doing.

We are doing the same thing with electricity. When I rocked up as energy minister, one of the first documents on my table was the final recommendation for electricity increases to get to a point that is commonly referred to as "cost reflectivity", which is when we actually pay for the cost our electricity. When the Liberal–National government came into office, that recommendation was for a 116 per cent increase. Members should bear in mind that in the draft report that Premier Carpenter received in the previous year, the recommendation was for a 72 per cent increase. What was Premier Carpenter's response to a 72 per cent increase? He announced a 10 per cent increase for the following April, which coincidentally would have been after the proposed election date—only the most cynical member would suggest that that might have been his motivation for waiting for 12 months. Then, 12 months later, there would be a further 10 per cent increase and thereafter annual increments at a similar rate. I will tell members the repercussions of that. If electricity prices had increased by annual increments of 10 per cent, by 2020 that would have been a cost burden on Western Australian taxpayers from consolidated revenue of $6 billion, and we still would not be close to cost reflectivity. That was the attitude of the previous Labor government. That is the attitude of the Labor Party today—it does not matter! The government wants to make sure that we keep electricity costs down, and we intend to get to a point at which we have a user-pays system. But if we went down the irresponsible line of the Labor Party, electricity would come at a cost of $6 billion. Can I say to members opposite that that would be wonderful! I would love to be sitting around a cabinet table saying to ministers, "Sorry, guys, you cannot have any more schools or allocation of resources for fisheries or child protection; we just do not have any money because we are bailing out the electricity corporations!" That would be completely and absolutely irresponsible

Hon Norman Moore: It is more than all the royalties we receive.

Hon PETER COLLIER: The Leader of the House is spot on! The Labor government's justification for the increases was of interest to this government. We then made a decision that we had to catch up with the rest of Australia. Our energy charges are the cheapest in Australia. We had to get to a point at which we were getting remotely close to a user-pays system. That is why we had the steep, necessary increases, which came at a cost to the community, and I am very, very conscious of that. As I said, Hon Robyn McSweeney will show just how mindful we are of that in trying to assist those who are least able to pay.

I thought, "How can I get to a situation as energy minister whereby I increase electricity prices by 116 per cent to get to cost-reflective levels?" The Labor government told us when it was going to split up Western Power that Western Australia would have a reduction in electricity prices. We were told this ad infinitum. As energy minister in 2002, Hon Eric Ripper stated —

> These reforms will deliver substantial and sustainable benefits to Western Australian consumers and the economy, through greater competition and lower electricity prices.

In 2003, Hon Eric Ripper repeated this and stated —

> … in other words, compared with what would happen if we were to stay with the status quo—electricity prices will fall by 8.5 per cent by 2010.

Again in May 2008, Hon Eric Ripper said, "I believe that policy does exert downward pressure on electricity prices." Not only did he say that it would put downward pressure on prices, but also he stated that prices would be reduced by 8.5 per cent. Imagine my dismay when I came along as energy minister, thinking that my first announcement would be to reduce electricity prices by 8.5 per cent, and the advice from the Office of Energy was, "Sorry, minister, you have to increase prices by 116 per cent." In the words of Homer Simpson, "D'oh!" What can I say as energy minister? Why on earth did the previous government have such an irresponsible attitude, particularly given that it had received enormous advice that the so-called disaggregation process would lead to lower prices? In fact, the chair of Western Power wrote a letter to Hon Eric Ripper in October 2002 stating, in part —

> The Board supports the concept of further reform in the State electricity industry to increase competition and reduce power costs. These changes should be introduced in a way which manages risks and protects the value of one of the State's most important assets. On this basis, the Board would endorse proposals for the establishment of a wholesale market and an independent transmission business. However directors would not support the disaggregation of the generation and retail sections of Western Power in the short to medium term. Board members believe that the sequence and timing of reform will be crucial to the efficiency and reliability of the industry.

I will not go through the whole letter, but it continues later on the "Extent of Structural Reform" and states —

> The ERTF argument for the creation of standalone generation and retail businesses is not compelling. Based on the Deloitte Study chaired by Treasury and supported by Western Power the Board believes that disaggregation into three separate entities would
>
> - reduce profitability
> - reduce value to the owner
> - reduce payments to Government
> - raise concerns about Generation's longer term viability and
> - threaten Retail's short to medium term viability.
>
> We note that it is commonplace to staple "retail" to other business units.
>
> In discussions with energy companies operating in Australia, we were told that they have a clear preference to invest in either regulated activities (wires and pipelines) or unregulated activities, but not both. The reason for this is to lessen the risk of being caught at the wrong point in the electricity price cycle.

As I said, the previous government cannot say it was not warned. In 2002 the previous Minister for Energy was given the Deloitte Touche Tohmatsu "Report on the Financial Impact of the Proposed Market Reforms on Western Power Corporation and its Successor Entities", which identified some real risks with the disaggregation process and the pressure it places on electricity prices. I promise that I am not saying the disaggregation process was solely responsible for the increase in prices. There have been significant pressures on electricity prices in recent years—in particular an ageing network, which brings with it enormous cost. In recent years we have injected more than $3.6 billion into the network to bring down that appalling backlog of pole maintenance, which was a legacy of the previous government. In addition, there are generation cost increases, renewable cost increases and fuel cost increases. All those cost imposts put pressure on the cost of producing and distributing electricity. Electricity is not cheap.

As I keep on saying, we are not "Nigel No Friends" in this space. It is an international phenomenon. Believe it or not, electricity prices in the Western Australian jurisdiction remain among the lowest in Australia. That comes as small comfort to Western Australian householders and I appreciate that; I really do. All I am saying is that Western Australia is not alone in this space; it is an international phenomenon. The fact that we did not have any increase over the duration of the previous government's administration has increased the burden significantly on Western Australian households. Had the then government had a much more responsible attitude about electricity tariffs —

Hon Ken Travers interjected.

Hon PETER COLLIER: Because we were told that it would reduce electricity prices, but it did not. If the previous government had had a more responsible attitude about electricity prices and, for example, had gone

along with CPI plus one or two per cent over seven or eight years, we would have been reasonably close to cost-reflective levels. The Western Australian public would have been much more attuned to those increases as opposed to having significant increases in the last three years. As I said, I am very conscious of the impact of those increases. However, had there been a more responsible attitude and a gradual increase in electricity prices, Western Australian householders would have been much more receptive to those increases, as opposed to the significant increases in recent years.

In conclusion, I am very conscious of the impact on Western Australian householders. I do not want to increase electricity prices and we are doing all that we can to assist those who are least able to pay.

HON ADELE FARINA (South West) [11.14 am]: I am pleased to support the motion moved by Hon Sue Ellery. I commend Hon Sue Ellery for bringing this important matter to the attention of the house. My only regret is that the 10 minutes allocated to me is not enough time in which to do justice to this important issue. The cost of living and the lack of affordable housing are two of the issues most frequently raised with me by my constituents. The high cost of living in this state under the Barnett government is affecting not only low-income earners, people on welfare and retirees, but also middle-income earners in vast numbers. People who have historically been able to manage their finances have not been able to avoid the financial pain meted out under the Barnett government. Successive massive increases in household costs under the Barnett government have pushed unprecedented numbers of WA families and WA households to the wall. It is the horror gift of the Barnett government that just keeps on giving. Families are struggling financially. The pain is real and the consequences for many WA families are dire.

Under the Barnett government, the average WA household has been hit with a 45 per cent increase in water costs, a 57 per cent increase in electricity costs and a 22.26 per cent increase in household costs across the board from other government charges. By anyone's assessment, this is a massive hit on WA households and one that is beyond the capacity of the vast majority of households to absorb. The government occasionally makes soothing noises about understanding the pain of WA households, but it has done little to reduce the burden on these households or to ease their pain. The Barnett government simply does not care and thinks that it can ignore the issue, but it does so at its own peril.

The Economist Intelligence Unit's paper, "Worldwide Cost of Living 2012" placed Perth as the twelfth most expensive city in the world. Five years ago Perth was ranked fortieth. That is a massive increase in a very short time. It is now more expensive to live in Perth than it is to live in New York, London, Rome or Vancouver. The cost of living continues to skyrocket.

The recent government-sanctioned increase in the cost of household gas is the latest proof that the Barnett government does not understand and does not care about the financial pain it inflicts on WA households. To add insult to injury, the 8.3 per cent increase came into effect with less than 24 hours' notice, providing no ability for WA households to adjust their household budgets, and less than nine months after the last 10 per cent increase.

This most recent gas price hike also illustrates the Premier's failed privatisation efforts. It was the Premier, then in his capacity as Minister for Energy in 1999, who moved for the privatisation of gas supply in this state. On 16 September 1999, the Premier, then the Minister for Energy, stated that the sale of AlintaGas would deliver lower gas prices to consumers. He said —

> In reality, we expect the average price rise to be around the CPI and, for certain classes of customers, we expect there to be significant falls in the price of gas under the combined impact of deregulation and privatisation. We expect to see continuing real price declines for householders.

He could not have got that more wrong. The reality has delivered nothing of the sort. Hon Norman Moore in 1999 also declared that the sale of AlintaGas would deliver lower gas prices to the consumer. Again, he could not be more wrong. Hon Norman Moore said in response to concerns by Labor members about the sale that —

> There has not been any evidence that private ownership across Australia translates into higher prices to consumers …

Hon Norman Moore was wrong again. We now have the evidence that we need. Hon Norman Moore also said that —

> Post July 2002 it is expected that the average price rise will be around the CPI and for certain classes of customers it is expected that there will be significant falls in the price of gas …

Hon Norman Moore was wrong once again. Under this government we have witnessed price rises greater than CPI. The sale of AlintaGas has been an abject failure in all the objectivities espoused by the then government. At a time when the people of WA are paying the price for the Liberal government's economic mismanagement, WA families are struggling financially and this government is doing nothing to ease the burden. The reality is that the cost of living in WA is rising faster than wages, especially for low-income earners, leaving households struggling to make ends meet. It is a simple mathematical equation that the Barnett government is struggling to

understand or is simply ignoring. When the cost of living increases at a faster rate than a family's income increases, the consequences are dire. One can tighten one's belt only so far before it breaks and for many WA families the belt is broken and they are in a downward spiral.

Calls for assistance from the hardship utility grant scheme have increased dramatically. That has been detailed by Hon Sue Ellery. In the south west alone there has been a 50 per cent increase in the number of approved HUGS grants over the past two years. This is despite all the extra challenges faced by south west families to access HUGS. Yesterday I asked the Minister for Child Protection to detail the number of normal HUGS grants paid at the maximum amount payable; the number of exceptional-circumstances HUGS grants paid at the maximum amount payable; and the number of people who have been refused additional funding assistance under exceptional circumstances. The minister declined to provide the information. I am not surprised. The picture that this information would have painted would not have been a pretty picture for this government. Last Tuesday I asked the minister whether the government would increase the maximum funding assistance to families under HUGS. The minister refused, saying it was last modestly increased in July 2011. The minister ignores that there have been substantial increases in household costs since July 2011 and the cap is now too low to address the financial needs of a growing number of WA families. This government simply does not care. I asked the minister, in view of the recent AlintaGas price hike: what new measures will the government provide to assist families? The answer is none. This government does not care about struggling WA families. I also note that Busselton Water and Aqwest do not participate in the HUGS direct application process. This means that customers of these utilities are required to apply for HUGS through a registered financial counselling service.

Despite the government slashing funding to 24 financial counselling positions across the state and the minister being regularly told of the long delays in the south west for accessing these services, these customers are still required to go through that long, cumbersome process.

Hon Norman Moore: What are you quoting from?

Hon ADELE FARINA: I am reading my notes.

Hon Norman Moore: I thought you were quoting from something.

Hon ADELE FARINA: And I did indicate that it was in response to a question that I asked the minister the other day.

Hon Robyn McSweeney: Tell the truth.

Hon ADELE FARINA: I am telling the truth, minister. I know that she does not like to hear this.

This places Bunbury and Busselton residents at a distinct disadvantage to other people across the state, and I believe this is unacceptable. The minister needs to explain why it is an option for quasi-government agencies such as Busselton Water and Aqwest to decline to participate in the direct application process and why the minister believes it is acceptable for her constituents—in fact, for any resident in Western Australia—to be disadvantaged in this way. It is little wonder that the number of applications for hardship utility grant scheme assistance for Busselton Water and Aqwest bills is so low. The task of securing such assistance has been made unreasonably difficult for my constituents. This is unfair and needs to be immediately addressed by the government.

The Anglicare report stating that homelessness is spiralling in Western Australia is of no surprise but of great concern. The lack of affordable housing, the lack of affordable rental properties and the massive increase in foreclosures in this state are all indicators that all is not well in our state and that a growing number of people are facing extreme financial hardship. The Barnett government sits idly watching these spiralling statistics and does nothing. The people of Western Australia expect better of their elected government. In view of the government's failure to act, it is more than appropriate that it be condemned for its inaction. I commend the motion to the house.

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [11.22 am]: I certainly do not agree with this motion. I seem to remember some time ago when Geoff Gallop was Premier that he said there would be no new taxes. What happened after that? Tax after tax. Every government that comes along has an obligation to look after those people who cannot look after themselves for whatever reason. They do need help to live in our society. We are morally bound to look after the less fortunate, and every government must have compassion.

Every opposition since time began has criticised a current government and spoken glowingly of its time in government. Many have short memories and time seems to dim the mistakes they made, and that goes for all governments. However, when governments around the countryside such as Labor get arrogant, they have to meet in a phone box. I was in absolute delight when watching the Queensland election results. I could not believe that Labor was left with only seven seats but, being a Liberal, it was very great to look at.

Hon Adele Farina: How is that helpful?

Hon ROBYN McSWEENEY: Because Labor had seven years in government and it was kicked out.

Hon Sue Ellery: Take responsibility for what you are doing to working WA families with children. Take responsibility!

Hon Peter Collier: You struck a nerve there.

Hon ROBYN McSWEENEY: I must have.

The DEPUTY PRESIDENT (Hon Col Holt): Order, members! The Minister for Child Protection has the floor. Continue.

Hon ROBYN McSWEENEY: Thank you, Mr Deputy President. I do believe that I am on my feet.

No matter what major party is in government, we all have a responsibility to look after the homeless, to look after people who are in crisis, no matter what the social issues are, and to look after dysfunctional families. We have an obligation to look after them. Our government has a good, solid reputation in the community for delivering, and deliver we do. We have delivered $600 million to the non-government services—something that Labor never did over the seven years that it was in government. It is actually the Liberal–National government that works with the Western Australian Council of Social Service to give a better deal out in the community.

Hon Adele Farina interjected.

Hon ROBYN McSWEENEY: I listened to the member; now she can listen to me.

Hon Adele Farina: No, you interjected on me.

The DEPUTY PRESIDENT: Order, members! Please let the Minister for Child Protection continue.

Hon ROBYN McSWEENEY: Thank you, Mr Deputy President. I actually interjected on Hon Adele Farina because she misled the house. She said that I declined to answer.

Hon Adele Farina: You didn't reply.

Hon ROBYN McSWEENEY: The member said that I declined to answer a question yesterday and I answered that question. I answered the question; I said —

> (3) The HUGS unit does not collect this information.
>
> (4) Utility hardship policies will need to be sourced directly from each individual utility.

I will check later, because the member said that I declined to answer and I did answer, so she should stop gilding the lily in here.

As I said, we were the first to give $600 million to the non-government sector in this state, and I am very proud that that came from a Liberal–National government. It must be hard for members opposite to accept that, seeing that they have been asking and asking.

Hon Sue Ellery: We welcomed it.

Hon ROBYN McSWEENEY: Yes. I am very pleased that they welcomed it. As well as that, there was $18 million over five years for education, training and support for the public and non-profit organisations; $96 million dedicated to the application of the non-government human service sector; and indexation policy for payments to the not-for-profit organisations, recognising the ongoing costs to that sector. Of course, that sector gets out and helps people. They are the people on the ground who certainly help others. That component one funding has been paid for all relevant contracts and, along with that, I think the index rate has put four per cent on all state funding services. Funding of $117 million was also provided in the 2011–12 state budget for component two funding, which represents a second funding injection equivalent to an average increase of 10 per cent across eligible contracts, to apply from 1 July 2013. Of that $117 million, $51 million will be available in 2013–14, and $66 million in 2014–15.

I will go to the hardship utility grant scheme, which was set up in 2008 by the then Labor government. I think it was just in its beginnings when the Labor government was kicked out of office.

Hon Peter Collier: Which we extended to gas.

Hon ROBYN McSWEENEY: We extended it, yes. We have done a lot of extensions of the hardship utility grant scheme. Since coming to government through to the end of February 2012, HUGS has provided 33 060 grants worth $11.8 million. Yesterday, the Leader of the Opposition, Mark McGowan, went out, spruiked a few furphies and said that we were going to stop the hardship funding. That causes terrible circumstances out in the community because it is not true. This is demand funded. I have made no secret about it being demand funded. If it is needed and if —

Several members interjected.

Hon ROBYN McSWEENEY: Mr Deputy President —

The DEPUTY PRESIDENT: Order, members! We were going so well with the first three speakers. Let us continue with this next speaker; thank you.

Hon ROBYN McSWEENEY: Thank you, Mr Deputy President. The rabble over on the other side will not keep quiet, so I cannot get out what I want to say.

Several members interjected.

The DEPUTY PRESIDENT: Order, members! I suggest that the minister stick to the motion. We may have fewer interjections if she sticks to that content.

Hon ROBYN McSWEENEY: Thank you, Mr Deputy President.

As I said—I will just repeat it—from August 2008 to the end of February 2012, HUGS has provided 33 060 grants worth $11.8 million; 11 272 grants totalling $4.6 million have been made in the 2011–12 financial year; and $6.6 million was allocated in 2011–12 to continue HUGS, resulting in a total allocation of $10.1 million. Further to that, we have done some refinements to further enhance the effectiveness of the HUG scheme. These are the inclusion of an additional grant, the inclusion and subsequent expansion of the exceptional circumstances criteria, grant limit increases in accordance with the utility cost increases —

Hon Adele Farina interjected.

Hon Peter Collier: Shush.

Hon ROBYN McSWEENEY: Hon Peter Collier; it works! He said "shush" and they did. I am very impressed.

Hon Peter Collier: I'm a former teacher.

Hon ROBYN McSWEENEY: There are grant limit increases in accordance with the utility cost increases and improvements in the grant processes to ensure the process is efficient.

Hon Adele Farina: What are you going to do for Aqwest and the Busselton Water Board customers?

Hon ROBYN McSWEENEY: I will take the interjection. I explained yesterday that there were only four applications and 10 applications respectively.

Hon Adele Farina: The reason is they can't get in to see a financial counsellor because the queues and the waitlists are so long.

Hon ROBYN McSWEENEY: We fund 52 financial counsellors and I go around the state talking to a lot of financial counsellors.

Hon Adele Farina: How many did you cut—24 positions?

Hon ROBYN McSWEENEY: They are very welcome in their community; the financial counsellors do a wonderful job.

Hon Adele Farina: They are very welcome in the community. We need more of them in the south west.

Hon ROBYN McSWEENEY: Hon Peter Collier, can you work your magic, please?

The DEPUTY PRESIDENT (**Hon Col Holt**): Order! Minister, you did invite the —

Hon Sue Ellery interjected.

The DEPUTY PRESIDENT: Order, members, please! I suggest the minister continue with the content of her speech and stop inviting interjections and we will get on. Thank you.

Hon ROBYN McSWEENEY: Thank you. I would never invite interjections from that unruly mob across there.

The DEPUTY PRESIDENT: Order, minister!

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon Sue Ellery: You're pathetic and you need to go back to your anger management classes.

The DEPUTY PRESIDENT: Order, order, order! Continue with the content of your speech, please.

Hon ROBYN McSWEENEY: Thank you. I would say that was bullying from across the way there, and absolutely disgraceful.

Several members interjected.

Hon ROBYN McSWEENEY: I go back to the HUG scheme, which is a very good program. We have spent nearly $12 million helping people in our community who are experiencing hardship.

Hon Ken Travers interjected.

Hon ROBYN McSWEENEY: Did you swear? Did I hear a swear word?

Hon Sally Talbot: It was a bit of an obscenity, but I do not think it was a swear word.

Hon ROBYN McSWEENEY: Sorry, Mr Deputy President, I thought I heard a swear word.

The HUG scheme is a very good program that helps many families. We have expanded the exceptional circumstances criteria along with the funding that goes with it. People in the south can get a normal grant limit of $475 and exceptional circumstances assistance of up to $790. People in the north can get $790, which is a normal grant, or exceptional circumstances hardship assistance of $1 180. They can apply for grant funds, within a limited amount, every 12 months.

HON SALLY TALBOT (South West) [11.32 am]: The terms of the motion moved by Hon Sue Ellery are very clear; it is in three parts. The first part refers to the failure of the Barnett government to keep household gas prices below CPI levels, as was promised by a previous Liberal government. The second part condemns the government for its assault on the finances of Western Australian families through its harsh rises in fees and charges. The final part condemns the Barnett government for its failure to provide affordable housing for Western Australian families, especially in the regions. There is nothing obscure or ambiguous about that motion. That is the motion we have asked the government to address in this place this morning. Those are the issues that it has spectacularly failed to take on. It has steadfastly walked away from its responsibility to provide people in our community with answers to these hard questions. All we heard from Hon Peter Collier was technical gobbledegook. All we heard from Hon Robyn McSweeney was her usual trick of blaming everyone else. These two senior ministers have stood in this place today and blamed everyone, except the government of which they are a part, for what is going on.

Hon Robyn McSweeney: We are very proud of our government.

Hon SALLY TALBOT: They start by saying something along the lines of "They made me do it." These two ministers sit around the cabinet table and take no responsibility for their actions. They just say, "They made me do it; we were forced to do it." They both say, "We had no choice." I was waiting for them to say, "This hurts me more than it hurts you", but they know that would be just a step too far because it is simply not true. This government is walking away from its responsibility to save the Western Australian community from the pain of the price increases that it has inflicted over the past three and a half years.

Let me quickly go over those increases in charges. Total government charges have gone from an average of, to use round figures, $4 800 a year to $5 800 a year. That is about $1 000 a year extra. The average electricity prices have gone from about $950 to about $1 500. I am comparing 2008–09 figures to current figures. The average water charges have gone from $400 a year to $580 a year and, of course, the gas provided by Alinta has gone from about $390 to $560. Those are monumental increases and the community of Western Australia deserves an explanation from this government. But, of course, what the government has demonstrated once again is that it has absolutely no understanding of the pain it is inflicting on ordinary households. It has absolutely no concern for those cost-of-living pressures for which it and it alone is responsible.

I want to wear a couple of hats this morning as I contribute to this debate. I am shadow Minister for Youth and shadow Minister for Peel. With those two hats on, I draw honourable members' attention to the article on page 20 of *The West Australian* this morning by the Commissioner for Children and Young People. I am sure the minister's office will have read that article. Michelle Scott talks about the stress inflicted on young people in our state. She makes the observation that to a significant degree, stress on children and young people is caused by the stress on their parents. Do not let the government get away with the claim that it is just technical stuff to do with the price of utilities. It is not. This motion today addresses the stress, the pain and the misery being caused to real, live people all over the state. They do not buy this empty vacuous explanation from the government that it has no choice. They want to know what the government is going to do. At the same time they are experiencing this pain and stress, they see the government putting billions of dollars into trophy projects. If we add the money going into the Premier's palace over the road to that, the billions of dollars going into the Waterfront development and the stadium, we can see living proof that this government is quite happy to sit around its cabinet table and syphon off money to its trophy projects while, at the same time, telling Hon Peter Collier and Hon Robyn McSweeney that they have no choice but to suck it up and pass on the increases to their constituents, who are suffering.

Earlier this week we saw the figures from the Anglicare survey about affordability of rental properties. These numbers are simply appalling. Let me briefly run through them as they apply to the area that includes Mandurah. We saw there was zero—a big round fat figure of zero—affordable and appropriate properties available for single people with two young children. No affordable properties are available for single people on the Newstart allowance, none for single people aged over 18 years and none for single people wanting to share a house. None. That is an absolutely shameful situation facing us in Western Australia in 2012. In the great southern and the

south west, areas that include Bunbury and Albany, we find similar disastrous results in this survey of affordable rental housing. There are no properties available for single young people on the Newstart allowance. If a person is single, aged over 18 and on youth allowance, there are no properties available. For single people on youth allowance wanting to share a house, there are no properties available. Those are figures that we cannot feel anything but shame about.

I take my hat off to a young man in Mandurah called Matt Cotterell who, a couple of weeks ago, decided he would go public with his story. I will give honourable members a flavour of this young man's experience, which was reported in the *Mandurah Mail*, and which we know is reflective of the experience of hundreds of young people around the Peel and south west regions of our state.

Hon Sue Ellery: The biggest proportion of homeless people are young people.

Hon SALLY TALBOT: As Hon Sue Ellery says, the biggest proportion of homeless people are young people. Members, can listen to his story, which reads —

> SLEEPING on rooftops, in deserted buildings and under bridges is no way to live, but for many Mandurah locals it's a reality they face every night.
>
> … Matt Cotterell knows the cold, dark and uncomfortable places to sleep in Mandurah all too well.
>
> The 19-year-old experienced a troubled home life with his mother and stepfather for 17 years and decided to escape the "horrible environment" more than a year ago.
>
> …
>
> He said he wanted to run away and escape the hostilities he was subject to at the age of eight but didn't have the opportunity until he turned 18.

I am going to use a swearword, Hon Robyn McSweeney—or at least one that she would probably consider to be a swearword—because I am quoting young Matt, who stated —

> "Life at home was really s..t and the only good people I had in my life were my Godparents," …

Here is this young man who has done very, very well at school; he has had to get out of home, and what does this government offer him? It offers him a life of homelessness. According to the article, young Matt stated —

> … there was definitely a limit to homeless services in Mandurah for youth under 25, especially affordable housing.

There is, because as I have shown this morning the accommodation available to those young people is zero.

This week we also had news that Habitat for Humanity is opening up in Bunbury. Do members know where else in the world Habitat for Humanity operates? It operates right through the Third World.

Hon Robyn McSweeney: So does Save the Children Fund.

Hon SALLY TALBOT: Yet it has found it necessary to open up services in Bunbury in the south west of this state. Every time we mention the two-speed economy we get a howl of derision from the government —

Hon Robyn McSweeney: No, I said Save the Children Fund is all over Western Australia, too!

Hon SALLY TALBOT: — yet we have Habitat for Humanity—which is a fantastic organisation and I am not derogating what it does one iota—having to provide the services it provides in Africa and the Third World to the people of Bunbury.

Finally, I will raise a topic I have drawn to this house's attention before: what is happening to financial counselling services in the Peel region. Hon Robyn McSweeney says there has been no diminution of the services, but in fact she has overseen an arrangement whereby two counsellors are withdrawn from Peel, and all Hon Robyn McSweeney has said is that other services can pick up that shortfall. I can tell you, Mr Deputy President, they cannot.

HON WENDY DUNCAN (Mining and Pastoral — Parliamentary Secretary) [11.43 am]: I agree with Hon Adele Farina that 10 minutes is not long enough to cover this subject, and I will be talking about, in particular, the provision of affordable housing in Western Australia, with a focus on the regions of course.

Let us look at the scenario that we are dealing with, which is that, as we all know, the cost of private housing has risen dramatically over the past 10 years; in particular, home and unit prices doubled between 2004 and 2007, under the previous government's watch, and rents more than doubled between 2003 and 2008, again under the previous government's watch. Also, during that time public housing stock did not increase in line with demand. At the end of the 2001 financial year the total number of Homeswest houses was 35 111; by the end of the last financial year of the previous government—2007–08—there were 35 473; an increase of 51 dwellings.

Hon Adele Farina accuses this government of "sitting idly by and doing nothing", but her government saw a housing crisis looming and what did it do? It spent its $2 billion surplus on paying off the Perth–Mandurah railway in full. This government has had to deal with this situation, and it is well and truly aware that housing prices are high, which is why the Liberal–National government is committed to tackling the demand for affordable housing by in May 2011 releasing the state's first ever affordable housing strategy.

This motion focuses on regional areas, so I will start my comments there. Through royalties for regions we are investing considerable resources into the housing shortage and affordable housing in the regional areas of the state. More than $1 billion is committed to a large range of initiatives and major programs developed throughout the state that are designed to increase housing stock, improve access to housing and improve amenity and lifestyle in regional Western Australia. This is the first time that a Western Australian government has invested such significant resources in both detailed planning and structured strategic investment to improve amenity and living standards in regional areas.

Let us look at a few of these initiatives, one of which is delivering affordable housing to key workers in regional Australia. An amount of $355.5 million was approved by cabinet on 19 March 2012 for a newly approved initiative that will deliver increased affordable housing opportunities to key workers in regional Western Australia. The objectives of this program are to provide affordable purchase and rental opportunities targeted to key workers; to deliver of a wide range of housing types into the marketplace, with a focus on one and two-bedroom dwellings—we noted the comments about the different family structures requiring housing; supporting private sector development in regional areas to grow local businesses; and to increase the number of households living in the regions.

There is also the non-government organisation strategic housing intervention. This initiative of $35 million announced in July 2011 is targeted at non-government organisations to help sustain the delivery of key government-funded services in selected locations in the Pilbara and Kimberley, where there is a significant shortage of affordable housing. The program was developed in response to concerns that NGOs were struggling to attract and retain the necessary staff in some regional areas due to, in many cases, the limited availability of affordable and/or appropriate housing. This is a targeted program, so funding was allocated for one financial year, and it delivered 58 affordable houses—32 in the Pilbara and 26 in the Kimberley. The houses are owned by the Department of Housing and leased to NGOs at a discounted rate. As at 29 February 2012, construction had been completed on 44 of these houses and the NGOs that are eligible to receive these houses are selected through an independently chaired allocation project.

Then there is the Government Regional Officers' Housing program, for which $200 million was announced in February 2009 to provide 400 units of accommodation to house government employees in regional Western Australia.

Hon Robyn McSweeney: Something that has not been done for a long time.

Hon WENDY DUNCAN: That is right.

That not only provides improved housing for our government employees, but also takes them out of the private market, freeing it up for others. I can itemise the numbers that have gone into various regions, but in view of the shortage of time I will talk to members about that afterwards.

There is the Jarrah Glen Lifestyle Village for which $1.05 million was announced in September 2011 to construct four out of six units in stage 1 to provide accommodation for self-funded retirees in Walpole in the south west region. That funding has been provided in 2011–12.

Cabinet approved $5 million in funding for Ngarluma Aboriginal Sustainable Housing in Roebourne on 7 February 2010. The NASH project is being undertaken with the Ngarluma Aboriginal Corporation and is aimed at increasing accommodation and improving the social and economic wellbeing of the people of Roebourne. It involves the development of 50 hectares for a 380-lot residential development. Stage 1 of the project will include 100 lots, including 50 for social and government employee housing. I got a bit confused there! There will be 380 lots, a school, seniors' housing and a commercial centre. Stage 1 of the project involves the creation of 100 lots, comprising 50 lots for social and government employee housing and 50 lots for the Ngarluma Aboriginal Corporation. On 14 March 2011, cabinet approved $5 million for the Roebourne housing initiative. The Department of Housing owns 131 houses in Roebourne. A number of these assets are located in the village and are in an extremely poor condition. The proposal is to commence a program of demolition, with the first stage being 25 units located in the village, and then embark on a creative and dynamic design of the area that will deliver better outcomes and more housing for people in Roebourne.

Cabinet approved $13 million on 10 October 2011 for the Indigenous visitors hostel program to provide housing for transient visitors in Kalgoorlie and Derby. The proposal was originally for Broome, but there is difficulty in determining a location there, so we will start with Derby, and Broome will be included when it is ready.

Cabinet approved $15 million in funding for stage 1 of the Aboriginal community housing project in the Kimberley in Fitzroy Crossing, Halls Creek and Kununurra. This has resulted in the construction of 10 homes in Kununurra, eight in Halls Creek, and, when completed, six in Fitzroy Crossing.

Cabinet approved $30 million on 9 November 2009 for the Karratha service workers' association project to provide housing for service workers in Karratha, where the price of rentals and the cost of housing skyrocketed due to lack of attention under the previous government. That has been an excellent program delivering 100 units, ranging from one bedroom to three-bedroom units—that is, 250 beds to help address the shortage of housing in Karratha. Cabinet approved $17.3 million in 2010–11 for Coral Bay seasonal staff accommodation at a 58-room self-contained village. There is also the SuperTowns development project.

This is what should have happened under the previous government—looking forward, seeing where population growth is going to happen, planning for it, preparing for it, making sure that government has the housing on the ground when it is needed, and not trying to plug the hole in the dyke once it is already there. That is what this government has been left to do following the abject neglect of housing under the previous government.

An amount of $40 million has been allocated to the northern towns development fund, which is to prepare those towns for their growth and ensure —

Several members interjected.

The DEPUTY PRESIDENT (Hon Col Holt): Order, members!

Hon WENDY DUNCAN: It will de-bottleneck land release. Land release has been a very big focus, and it is thanks to this government and the negotiations that have successfully taken place with Aboriginal communities that we have released so much extra land.

HON MATT BENSON-LIDHOLM (Agricultural) [11.54 am]: In the brief time that I have to speak, I thank and congratulate the three opposition members who have spoken thus far, because it is patently obvious that the compelling case they put to the house is something that, I believe, the government needs to take on board with some degree of rapidity.

There is absolutely no doubt whatsoever that families, and individuals for that matter, around Western Australia are struggling by the day. While families struggle, we have a state government that, if I remember my figures from my speech in reply to the budget last year, is going into debt to the tune of something like $12 million to $15 million a day. That is what we are adding to gross state debt. That is a dreadful indictment on this government, given the sorts of problems that this opposition has alerted the house to today.

In the brief time I have, I will read a couple of quotes from *The Geraldton Guardian* about cost hikes and the public housing situation. These are both from articles by a journalist by the name of Samantha Robin. The first article is from 15 April 2011 and states —

> The rising cost of living is hitting Mid West households hard, with spiralling energy costs and increasing mortgage rates set to get worse.
>
> An investigation by the Geraldton Guardian found an average family with two children and combined income of less than $100,000 would be struggling to meet day-today living costs.
>
> The Guardian found that based on average living costs, these families may be in the red by up to $650 a month.

The other article is about public housing and states —

> Public housing in Geraldton has reached breaking point, with more than 800 people on the waiting list.
>
> The average waiting time to secure a home in Geraldton is nearly two and a half years.
>
> Many people on the waiting list face a daily struggle to get by.

Hon Sally Talbot posed the question that everybody should be thinking about. She asked the government, "What are you going to do?" The government comes up with bandaid and patchwork approaches to this, but I do not see any long-term strategic approach. There was a submission to the Western Australian Legislative Assembly Community Development and Justice Standing Committee in January 2011 by an organisation called Shelter WA. I do not have time to go through the committee's inquiry terms of reference, but the main term of reference it sought to address was "the role of government, and the private and the not-for-profit sector in facilitating affordable housing". For members opposite, and members on this side for that matter, who have not seen the Shelter WA submission, I suggest it is compelling reading because it has 44 recommendations that this government might like to take on board if it is in any way, shape or form to address these issues, particularly the issue of affordable public housing.

Really, that is about as much time as I have to talk about this. I simply put it to the house that this is a compelling motion, I support it entirely and I recommend that members take on board the issues associated with it.

Motion lapsed, pursuant to standing orders.

CRIMINAL ORGANISATIONS CONTROL BILL 2011

Committee

Resumed from 2 May. The Deputy Chair of Committees (Hon Col Holt) in the chair; Hon Michael Mischin (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon SALLY TALBOT: I just remind the house that the questions to which I seek clarification at this stage of the debate relate to the possibility that the Criminal Organisations Control Bill may unintentionally capture people who are not intended to be subject to the provisions of the bill. I also remind the house that very clearly the bill states to whom it intends to apply. Clause 4(1)(a) states —

> to disrupt and restrict the activities of organisations involved in serious criminal activity, their members and associates so as to reduce their capacity to carry out activities that may facilitate serious criminal activity; …

I did note, just refreshing my memory, late last night in the Attorney General's second reading speech, that he at one stage notified the house that he was going to use a shorthand term for outlaw motorcycle gangs: OMG. He used OMG as a sort of shorthand throughout his second reading speech.

Hon Michael Mischin: Did he use that as a term convenient to refer to criminal organisations declared under the act, or subject to being declared, or just in respect of so-called bikie gangs?

Hon SALLY TALBOT: I could probably go back and refresh the parliamentary secretary's memory; I have the documents here.

Hon Michael Mischin: Sorry; I don't recall that particular bit specifically.

Hon SALLY TALBOT: It was actually fairly near the beginning of the speech. He said that he would like to outline how the bill, once enacted, would function. He said that there was no question whatsoever that members of these organisations will frequently commit criminal offences, and that he may refer to OMGs for the sake of brevity. I am just making it clear that my interest in pursuing these questions is not to imply that Labor in any way dissents from these measures as they apply to outlaw motorcycle gangs involved in criminal activity. What I am concerned about is people who may be caught up in the provisions of the bill, which is presumably what the government does not intend.

When we adjourned last night, I had asked the parliamentary secretary to inform the house what the circumstances would be if we had two people who were subject to control orders and ended up working in the same workplace. How would the anti-association provisions apply to them? The parliamentary secretary's response was that we did not have a one-size-fits-all provision, so they may be forbidden from associating in the workplace, or they may not be. I asked the parliamentary secretary if he could indicate to the house how that would actually be determined. We have person A with a control order applied to her and person B with a control order applied to her; how does the court keep track of where those people are? I have seen the provisions that relate to the types of employment that a person might seek, so I can see that if there were some particular criminal activity associated with a particular work site, then the control order might relate to that person, A or B, not going near that work site. In a more general sense, people arrive in this state every day with their backpacks and end up in Kununurra or Argyle, or down in the sand mining operations of the south west. How does the court keep track of whether these people are associating, or likely to associate, in the workplace?

Hon MICHAEL MISCHIN: I think I touched on a fair bit of this last night, as to the court making a control order if it is satisfied to the requisite standard that one is warranted against a particular person; standard conditions may apply and there may be particular conditions that can be applied, and exemptions to those conditions as necessary. A respondent to such an order can draw particular circumstances to the court's attention, and there is a power within the bill, which we will get to in due course, for varying or revoking orders as necessary, depending on the material that is put to the court. If I understand the member's question, it is more of a general one as to how the court will keep track. The court does not keep track; that is not its function. The function of enforcing control orders will be left with the police and other law enforcement agencies, and they will do that in accordance with the resources that are available to them and to their policing priorities, in the same way that any other court orders that may restrict the movements of people by way of bail conditions or other court-ordered restraints on their conduct are policed. That is more of a law enforcement issue, rather than one relating to the principles of the bill.

Hon SALLY TALBOT: Perhaps I can ask the question in a slightly different way. Throughout the bill there are references to restrictions being placed on a person's employment. Can the parliamentary secretary tell the house how the reference to employment might actually be imposed on the person? Does it say that they cannot go to that particular part of the state, or that they cannot engage in this particular activity, or that they cannot engage in

mining activities or handle explosives; or, as I suspect, does the order just say that they are not allowed to associate with other members of criminal organisations?

Hon MICHAEL MISCHIN: Once again, this is starting to get into specifics that are already set out in the bill and possibly may be more properly addressed when we get to division 5, for example, of part 3 of the bill, which sets out the effect of orders that may be made. Clause 77 provides that an interim control order has certain consequences. Clause 77(2) provides that a controlled person under a control order must not associate with any other controlled person, except as permitted by the terms of an exemption under proposed section 59. That, again, is something that is determined by the Supreme Court at the time of making the control order and would be the subject of submissions, if thought fit, by the respondent. Otherwise, non-standard conditions under subdivision 2 of division 5, part 3 set out that a person can be restrained from doing particular things such as carrying on activities prescribed in the order and so on. Prescribed activities are set out in clause 80 of the bill, including those that may involve people, in broad terms, working as a security officer or a bouncer, in the gambling business and so forth. Those matters are set out in the bill. I am not sure what I can add to that, other than to say that if there are particular queries on those matters, we should deal with them when we get, hopefully, to those clauses in the bill.

Hon SALLY TALBOT: I thank the parliamentary secretary for that. Mentioning those occupations has assisted me in that regard. I will return to my original question. I have not actually phrased the original question yet, because I first asked the parliamentary secretary how this was going to relate to places of employment. I am going to assume from what the parliamentary secretary just said that we could have a situation in which two people who are under control orders work at the same work site and they will not be contravening the terms of their control orders by doing that. Have the people who are subject to control orders committed a criminal offence?

Hon MICHAEL MISCHIN: The scheme of the bill is that, firstly, a declaration is made that an organisation is a criminal organisation within the meaning of the law, and I have already set out the high standard that has to be met before a designated authority can declare an organisation a criminal organisation. Once that is done, that can be the basis for an application for either an interim or a control order, or both, in due course. The intent is broadly stated in clause 33(1), and the circumstances in which a control order can be made are set out in clause 57. Clause 57 requires that the person must be a member of a declared criminal organisation, or variations on that theme, which are set out in detail. Subclause (3) states that the court must have regard to a variety of other factors, including a person's past history and whether they have been convicted of any criminal offences and the like, when deciding whether it is appropriate to grant an application for a control order. So, no, a person need not have committed a criminal offence to be subject to a control order. Whether they have committed a criminal offence in the past and whether they are members of a criminal organisation are factors that are relevant to whether a control order will be made. A control order can be made against them if they are a member of a criminal organisation, but having committed a criminal offence is not a prerequisite to a control order being made.

Hon SALLY TALBOT: So it is not a criminal offence to be a member of a designated criminal organisation.

Hon Michael Mischin: No.

Hon SALLY TALBOT: I am not a lawyer, parliamentary secretary. One fills in forms that ask, "Do you have a criminal record?" If I were subject to a control order, could I still tick "no"?

Hon Michael Mischin: Yes.

Hon SALLY TALBOT: I do not have to tick "yes" because I am the subject of a control order.

Hon MICHAEL MISCHIN: Being subject to a control order is not an offence per se. Breaching the terms of a control order may make a person liable to punishment because that person will have committed an offence. But the fact of a control order having been made against a person does not mean that that person is "a criminal" or has a criminal history. It is not an offence itself, because for a variety of factors it is not prescribed as an offence.

Hon SALLY TALBOT: I will pursue this under clause 1 because I cannot find any reference to this. Say I am subject to a control order. Could that control order stipulate that I must not associate with anyone else who is subject to a control order, or must the control order be more specific than that?

Hon MICHAEL MISCHIN: Once again we get back to clause 77 of the bill. It is a standard condition that a controlled person under a control order must not associate with any other controlled person except as permitted by the terms of an exemption under clause 59. A breach of that condition is an offence under clause 99. The point of this is, once again, that if a person is a member of a criminal organisation and if the Supreme Court has been persuaded to the requisite standard and on the relevant material that that person is someone in respect of whom a control order ought to be made, then, no, that person is not to associate with others who are subject to control orders. That is done with the view, of course, to breaking up the collegiality and unity of those criminal organisations so that people cannot communicate with each other, plot together and act together.

Hon SALLY TALBOT: With respect, parliamentary secretary, the collegiality and unity clearly relates, I assume, to members of the one organisation. I hardly think that they are the terms one would use to describe relationships between different organisations. In fact, it actually would be the opposite of that, one would have thought. Again by way of clarification for me, I will use the example of somebody who is subject to a control order because they are a member of organisation A. That control order will also prohibit them, unless there is an exemption, from associating with members of organisations B, C, D and onwards.

Hon MICHAEL MISCHIN: Yes, if those other people are subject to control orders.

Hon SALLY TALBOT: To pursue the terms of my question, there are two people who are complying with the terms of their control order and are working for the same employer on the same work site. They are also members of a trade union. The trade union members go on strike and the two people subject to the control orders join the strike. They are no longer on the boss's time. They take part in the strike with maybe 1 500 other union members. They are on a picket line that is not a legal picket line. I do not imagine that people will sit down and talk about the fact that they are subject to control orders unless it does become a badge of honour, which was one thing that was talked about in the other place. Even if that occurs, I cannot image that it will necessarily become part of the discourse between two employees. If these two people who are subject to control orders, and who presumably are not allowed to associate with each other, find themselves on a picket line together, have they then breached the terms of their control orders?

Hon MICHAEL MISCHIN: I am sorry I did not catch the last bit of that question on the nature of the association between these two people. I took on board the picket line bit.

Hon Sally Talbot: If they are on a picket line together, they are not at work.

Hon MICHAEL MISCHIN: The fact they are on a picket line together does not mean they are associating. The fact that the two of us are in this chamber sitting on opposite sides does not necessarily mean that we are associated with each other. Once again, I seem to be going through the terms in the bill, and I mean no disrespect.

Hon Sally Talbot: I know. This was inevitably going to happen.

Hon MICHAEL MISCHIN: I am happy to answer questions and explore issues, but terms like what it means to associate are defined. For example, clause 100 deals with defences for a charge of breaching an order not to associate if someone can establish that they did not and reasonably could not be expected to know that the other person was subject to a control order when they were associating. All these things are covered in the bill.

Hon SALLY TALBOT: I think we did seek some clarification from the Chair last night, and my recollection is that it is not an unusual situation for people to pursue specific queries on what may have been missed from the bill and it is the parliamentary secretary or the minister's responsibility to draw our attention to that, so we will inevitably end up talking about various clauses. I think the parliamentary secretary has answered my question by saying that two people who find themselves in association on a picket line will be able to appeal if they were then charged with breaching the terms of their control order, because they will be able to say they had no idea and could not reasonably have been expected to know that.

What about the other people on the picket line, particularly in the circumstance that it is determined they are participating in an illegal industrial action? What could be the effect on them, having associated with people who are subject to an anti-association control order?

Hon MICHAEL MISCHIN: Nothing; it is not an offence in the bill. No offence is prescribed for a person who associates with a person who is subject to a control order. The point of a control order is to prevent people who are thought to be sufficiently worthy—or let us say "unworthy"—of attracting the court's exercise of its discretion to make a control order, from associating with each other. It is not the aim of the bill to stop them from associating with people in the street, friends or relatives or the man from the local delicatessen.

Hon Sally Talbot: Or a person next to them on an illegal picket line?

Hon MICHAEL MISCHIN: There may be another offence involved if it is an illegal picket, but that is not the point of the bill and nothing in the bill creates an offence to do so.

Hon SALLY TALBOT: I am not trying to do the parliamentary secretary's work for him, but the parliamentary secretary said there may be another offence involved.

Hon Michael Mischin: The member mentioned the example of an illegal picket line, so if it is illegal, it is against the law and there may be offences that flow from that, but that has nothing to do with this legislation.

Hon SALLY TALBOT: I understand what the parliamentary secretary is saying. The parliamentary secretary drew my attention to this last night, but that offence would have to fall into the category of organisations that have been declared criminal organisations.

Hon MICHAEL MISCHIN: Perhaps we can discuss this when we get to those clauses, as I am not sure I understand the member. We cannot put the cart before the horse. We have to establish the serious criminal activity in order to get the declaration. Once there is a declaration as to the organisation, then the members may be liable to certain consequences for breaches of control orders. It is not "must be" or "will be"; but they "may be" subject to a control order against them. If they happen to do something that is unrelated to the purposes of the bill, then they may be committing a different offence under some industrial legislation, or whatever it happens to be, but not if the organisation is not otherwise a criminal organisation. I would have thought it bizarre if a trade union, which is not a criminal organisation and which does not by any conceivable measure satisfy the criteria under the act to be made a criminal organisation, can be tainted by the fact that it happens to have a controlled person as a member. If the character of the organisation changes, it may very well become one that is liable to be considered a criminal organisation, but that requires more than one member being involved in it and there are specific criteria that I have already mentioned that must be satisfied before that can possibly be the case. Also, throughout this, clause 4(2) of the bill states —

> … it is not the intention of Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest, dissent or industrial action.

Hon SALLY TALBOT: I have caught up with myself now, so I am following the parliamentary secretary's argument. I was referring to indictable offences for which the penalty is five years or more. The parliamentary secretary stated that there may well be offences under other acts. If the offence under the other act fell into that category, would that then invoke the provisions of the control order?

Hon Michael Mischin: Against whom?

Hon SALLY TALBOT: In the example of the two people who are subject to control orders and the other 1 500 people who are standing with them on the picket line. If an offence was committed on that picket line, either by virtue of the fact it was an illegal picket or something that happened on that picket line as part of that industrial action—people get run over and fall off things—and if the offence that was committed carried a term of imprisonment of more than five years, would that then invoke the provisions of this bill about associating with people who are subject to the control order?

Hon MICHAEL MISCHIN: No.

Hon SALLY TALBOT: I have one more question and then I will hand over to anybody else who wants to ask questions on clause 1, and we will raise other things as we go through the bill. I know that the bill refers to interstate provisions, but I want to be clear. As the parliamentary secretary will know, in Australia some trade unions are structured federally and some have state-based structures. In a hypothetical situation, if a state-based organisation in another state where these kinds of provisions apply was determined to be an illegal organisation, would the commissioner then be able to take an application to the persona designata regarding an organisation of the same name—indeed it would be part of that federated structure in this state—and therefore apply for a declaration that this organisation in Western Australia is an illegal organisation?

Hon MICHAEL MISCHIN: Part of that turns on what the structure of the organisation may be and what the nature of the declaration may be in the interstate jurisdiction. We will use the union example, because that is the instance that is troubling the member the most. If some union goes bad, it may —

Hon Sally Talbot: There is an example.

Hon MICHAEL MISCHIN: There are examples, yes. I recall a long royal commission taking place in Queensland at one stage.

Hon Sally Talbot: I was thinking about something much more contemporary than that.

Hon MICHAEL MISCHIN: Let us face it; all organisations can go bad if they are under the influence of bad people. We will leave that aside. The member is concerned about industrial issues. The purpose of the act has been set out; the government is not targeting industrial action or legitimate advocacy. It is targeting criminal organisations within the very narrow definition that has been provided.

Let us say a union or movement has state branches and one of those state branches is declared a criminal organisation in Queensland, for argument's sake. Assuming that its legislation falls within the description of one that can be recognised for reciprocal registration purposes in Western Australia, yes, that union can be registered in Western Australia, but that would affect only that organisation, not ones in other states and not any oversight federal body. Provisions in part 7 concern registration and what criteria have to be met. It may be that, using the same principles that are set out for local bodies under clauses 19 to 23, registration is cancelled under clause 128 by an application in Western Australia to have that registration set aside. There are safeguards there.

Hon SALLY TALBOT: These are purely hypothetical examples; I am trying to work my way through the possible implications of the bill. To furnish a concrete example for the non-legal people among us, if a state

branch of a union outside Western Australia was, for example, engaged in protection—the parliamentary secretary mentioned the involvement of the Mafia with American unions in the 1930s and 1940s and subsequently—it could be declared an illegal organisation in Queensland. That would then give the commissioner the grounds to seek a declaration for the same union in Western Australia.

Hon MICHAEL MISCHIN: He does not even have to do that. If Queensland seeks to have it registered and it can be registered, the order in Queensland can be registered here for that chapter, if we like, or that organisation.

Hon Sally Talbot: The Western Australian branch.

Hon MICHAEL MISCHIN: No, not the Western Australian branch.

Hon Sally Talbot: That is what I am asking.

Hon MICHAEL MISCHIN: I understand what the member is driving at now. If the Queensland branch of the politicians union turns out to be a criminal organisation according to the legislation there and it is sufficiently matched to ours to achieve some reciprocity of intent and substance, then, yes, if the Queensland branch is declared, the Queensland branch can be registered here and members of the Queensland branch may be subject to control orders made in Western Australia. The Queensland branch would be a declared organisation here, not the Western Australian branch.

Hon SALLY TALBOT: Did I understand the parliamentary secretary to say that whether that was the case would depend on the internal structures of the union? We do not need to go into all the many and varied different structures of unions, but whether it is a federated body or state body—I am particularly concerned about the federated bodies that may have a national office somewhere else and may just work in that federated structure—is there no way that a WA branch could be caught under this legislation if it is a declared illegal organisation elsewhere?

Hon MICHAEL MISCHIN: The question is: what is the organisation that we are looking at? That will be a question of fact based on the material that is available to the persona designata that is making the orders and also a relevant consideration for registration. Just to give a very broad example, if there were an Australian politicians union of which everyone was a member and a state found that it was sufficiently criminal within the meaning of the act to be considered a criminal organisation and it was declared such in another state, then, yes, that could be registered here and it would be a criminal organisation for the purposes of our legislation. However, another provision allows relief from registration and to have it not subject to the act in the same way as any other organisation in Western Australia. If it is a Queensland organisation because of a matter of fact as to the substance of the organisation itself, then, yes, it could be registered here, but it would cover only the members of that organisation. So part of it may be a legal issue, but much of it would also be a factual issue as to what the organisation is, and that would depend on the circumstances. But there are safeguards here to have that decision reviewed for the purposes of Western Australia and registration here, and that is set out in clause 128 of the bill.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Terms used —

Hon GIZ WATSON: This clause deals with the terms used in the bill. Before I formally move my amendment, I want to seek some clarity around the meaning of "to be in company with". To some extent Hon Sally Talbot tackled this issue in her exchange about a person being in the same room or on the same picket line. However, it seems to me that that is a fairly loose term. If I go to a meeting and two people who are subject to a control order happen to be in the same room—because that is what it is about—what does "to be in company with" mean?

Hon MICHAEL MISCHIN: It is a question of fact and degree as to whether someone is in company with someone else. I do not think that legislation can prescribe anything more precise than that. It really is a question of fact depending on the circumstances. Two people might be in the same room together and not be in company with each other. They may, on the other hand, be in company with each other depending on where they are positioned, what they are doing and how they interact with each other. It is a question of fact and degree depending on the circumstances.

Hon GIZ WATSON: The importance of this definition—I would like to have this clarified—is that the definition of "associate" is important to the question of people who are subject to a control order and what they can do in relation to each other in terms of interaction. Therefore, it seems important that someone subject to a control order understands the meaning of "to be in company with". I think there is an inherent problem, and this is a problem with this type of legislation that contemplates a pre-emptive approach in law to human activities. When we are dealing with criminal offences and prosecuting and pursuing something that has been done, that is one thing, but now what we are doing is trying to deal with a preventative measure. The comparison was made during some of the discussions in the second reading debate with violence restraining orders. I agree that there is a similarity to violence restraining orders; they are a type of control order. I am not fully conversant with

violence restraining orders, but I know a bit about them. My understanding is that they pertain to saying to a particular person that they cannot be within a certain distance of a house or a person. That is generally what restraining orders are about. This is a much broader concept. It is about saying that someone cannot associate with another person. That is why this bill is novel. I am not saying that it has not been attempted elsewhere in Australia, but it is a complicated thing to try to convey to somebody whom this order has been put on that they now cannot be in company with the other person. I ask the parliamentary secretary to perhaps explain this. He says that it is a matter of assessing. Who will make that assessment as to defining what will be, I guess nuancing the definition that is in the bill, "to be in company with", and how will that be conveyed to the people who will be affected by that definition?

Hon MICHAEL MISCHIN: The term "in company" is not unknown to the law. It is in fact a circumstance of aggravation in burglary cases to be in company with another person. I cannot recall now the precise way it has been dealt with by the courts; it has been some years since I have had to consider it. But it is more than being in the physical proximity of someone necessarily. There has to be some interaction —

Hon Giz Watson: Sorry; did you say it is more than —

Hon MICHAEL MISCHIN: It is more than being in the physical proximity of someone. There has to be some form of interaction or communication or engagement with the other person, in substance. That is my recollection of it. But these sorts of things are not dealt with in a vacuum. It has just been pointed out to me that it is a circumstance of aggravation to be in company with another person in the case of an assault. I think that it is probably also a circumstance of aggravation in the case of a sexual assault that elevates it to a higher penalty potentially if the person is in company with another. It is not an unusual concept. One does not look at legislation and say, "Gosh; I'm going to commit a burglary along with someone else, but I don't want to fall under the "in company" circumstance of aggravation under the Criminal Code." This section prevents association between people. Part of that definition means to be in company with another person. If Hon Giz Watson was the subject of a control order saying that she was not to associate with, say, Hon Ljiljanna Ravlich —

Hon Giz Watson: No problem!

Hon MICHAEL MISCHIN: I am glad that the member said that, because what steps would she then take to not be in company with Hon Ljiljanna Ravlich? Presumably, even though Hon Giz Watson may be required to be in the same room as Hon Ljiljanna Ravlich because Hon Giz Watson goes to the same dole office to collect her dole, or to the same delicatessen to buy a drink —

Hon Sue Ellery: Hon Ljiljanna Ravlich is a woman of some means. She won't be going to the dole office.

Hon MICHAEL MISCHIN: There is a life experience that the member might one day experience. But the point I make is that if Hon Giz Watson was told not to be in company with her, there are certain things that Hon Giz Watson would instinctively avoid if she was trying to comply with the terms of the order or her personal preference to not be in company with someone else. One of them would be not finding herself in close proximity to the other person, not communicating with them, not engaging in any activities with them in cooperation, and so on and so forth. If in a particular circumstance a person was charged with breaching a control order because they had associated with this other person and the basis for that was the allegation that they were in company with the other person, that would be a question of fact and degree that would be determined by the court hearing the offence. It would do so in accordance with the evidence and the principles that are broadly accepted as a means of determining that question in other offences under other laws. There is nothing novel about it.

Hon GIZ WATSON: That assists. I think I understand that "being in company with" is likely to be interpreted in the way the parliamentary secretary described it in relation to other offences. There has to be some degree of interaction and some purpose for that interaction, and there has to be evidence of that.

Hon Michael Mischin: Yes.

Hon GIZ WATSON: Obviously, there has been a fair amount of speculation about what this bill does and does not do. It is worth pointing out that "being in company with" does not mean just being in the same room at the same meeting. Some people have raised that, so I think it is worth being clear that it will be more in line with what we understand to be in company if one is committing a burglary or some sort of offence. There has to be some communication and some shared purpose. If that is correct, that is useful clarification for me.

Hon MICHAEL MISCHIN: I know that no response is required but I will give a response to that because there is also the safeguard in section 100 of the bill. It is not only a defence to establish that a person did not know and could not reasonably be expected to have known that the other person with whom he or she associated was a controlled person, but under subsection (1) in respect of an interim control order, forms of association that are set out in section 101 are to be disregarded if the association was reasonable in the circumstances and so on. I think we can rely on the courts taking a sensible approach to these things in the same way they do with other offences.

Hon LINDA SAVAGE: Hon Sally Talbot used a scenario of people attending perhaps a strike and the possibility, for example, that that would be illegal. Let us say it is not. If a person joined such a group of people and did not necessarily know the person standing next to them was subject to a control order, would that be a proximity issue? The parliamentary secretary used the term "shared purpose". I suppose there would be a shared purpose in that strike situation.

Hon MICHAEL MISCHIN: It is always difficult to deal with hypotheticals because many circumstances are involved that would influence the answer to that question. If a person happened to be standing side by side with someone, yes on one view they are in company with that person. On the other hand, if they do not know that the person is someone they are not supposed to be in company with, that is a defence under the legislation. Also, there is an element of common purpose to be in company with someone, as I recall the law. I do not have the case reference with me at the moment. I can try to find what that is so that I can share the legal principles with the member at a later stage of the debate. But it is more than simply being in physical proximity, as I understand it. I may be wrong about that but my recollection of having to consider whether people who are hanging around a house where one of the group has committed a burglary means that the burglary was done in company, suggests that it is not as broad as being simply "in proximity with". But I may be wrong about that; I will have to look into it.

Progress reported and leave granted to sit again at a later stage of the sitting, on motion by Hon Michael Mischin (Parliamentary Secretary).

[Continued below.]

Sitting suspended from 12.56 to 2.00 pm

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

"Special Report" — Statement by President

THE PRESIDENT (Hon Barry House): Members, I have considered the report by the Standing Committee on Public Administration titled "Special Report", which was tabled this morning.

As I stated earlier today, standing order 92 is not applicable to this special report. The report does not raise a matter of privilege or possible contempt to be adjudged by the Council. Rather, it simply recommends that the house refer part of the report to the Standing Committee on Procedure and Privileges for it to consider recommendation 1 as to how the public sector is made aware of the nature and consequences of appearing before parliamentary committees and that the house call on the government to undertake certain actions in regard to senior executive service personnel.

The intent of new standing order 93 and schedule 4 is to ensure that only the most serious instances of possible contempt are brought before the house. In this case there was no substantial obstruction of the Standing Committee on Public Administration in the performance of its functions. I note that the special report contains a letter of unreserved apology from Western Power. In my view, pursuant to schedule 4(b), the committee itself found a remedy for any act that may have been held to have been a contempt without needing to invoke the Council's power to adjudge and deal with contempts.

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Statement by President

THE PRESIDENT (Hon Barry House): I table a letter from the Chair of the Joint Standing Committee on the Corruption and Crime Commission, Hon Nick Goiran, and further to the tabling of that letter I wish to add a comment.

[See paper 4482.]

The PRESIDENT: The letter I have tabled from the Joint Standing Committee on Corruption and Crime Commission raises a matter that I consider I must bring to the attention of the house and its committees. The letter implies that there is no requirement to correct an error in a report tabled in this house. Whilst the Joint Standing Committee on Corruption and Crime Commission operates under Legislative Assembly standing orders, that does not mean it has no obligation to this house. Any misleading report must be corrected in both houses of Parliament. In future, committees must ensure that an addendum and the correction to the tabled paper are tabled in this house for members' information.

CRIMINAL ORGANISATIONS CONTROL BILL 2011

Committee

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Michael Mischin (Parliamentary Secretary) in charge of the bill.

Clause 3: Terms used —

Progress was reported after the clause had been partly considered.

The CHAIR: We are dealing with the Criminal Organisations Control Bill 2011 and with clause 3. I put the question to Hon Giz Watson: do you intend at this particular stage to move that amendment?

Hon GIZ WATSON: Mr Chair, not to suggest the process —

The CHAIR: I am not asking you to do that.

Hon GIZ WATSON: — but I have some further questions about the clause in general before I move to the amendment, which is actually over the page on page 4 of the bill. I will be guided by the Chair.

The CHAIR: That is fine; that is most definitely in order.

Hon GIZ WATSON: I might just check whether we have completed a conversation on this question of "in company" because I am aware that Hon Linda Savage is also talking to that issue. I have finished my comments on that and I am trying to ensure we have finished that before we go to another question. I defer to Hon Linda Savage. Has she finished on that?

Hon Linda Savage: Yes.

Hon MICHAEL MISCHIN: Just on the question of "in company", I mentioned that there has been case law on the subject, and I am obliged to my adviser for having found the case. Most recently it is one called Lacco v WA [2006] WASCA 152. That reference refers to other authorities. The document I have on the question states —

> For an accused (A) to be in company with someone else (B), both A and B must have been physically present and have shared a common purpose. B's participation in the common purpose without actually being present, for example by acting as a look-out, is not enough. Some cases focus on the victim's perspective in being confronted by A and B in combination, but this not a necessary incident of the term. If A and B are present and share the same purpose, A will be in company with B even if the victim was unaware of B's presence.

The comment about victims and the like is because it is often—in the context of offences that carry the circumstances or an element of aggravation—the question of whether the accused has been "in company with" someone else. That is some clarification; it is more than simply a physical nexus.

Hon LINDA SAVAGE: Just so that I am absolutely certain here, the onus to establish that someone was in company with someone as part of the definition would be on the person asserting that they were "in company with". Is that correct?

Hon Michael Mischin: Yes.

Hon GIZ WATSON: Perhaps then I might move to my next question, which is also contained within the definition of "associate, with another person". Paragraph (b) of that definition states —

> includes associating with the other person, in any of the ways mentioned in paragraph (a), —

That is what we have just been dealing with —

> within or outside Western Australia, including outside Australia;

Again, I can be corrected if I am wrong, but this is a fairly novel concept that we are dealing with. If it is not necessarily the jurisdiction of another country, which I think we have the capacity to do, I assume it relates to intelligence that indicates a person is associating with another person outside of Australia. We can imagine a scenario in which someone goes to Bali and makes some arrangements about a criminal activity over there and somehow this definition is trying to capture that and make it fall under the definition of "associate". Is that what this was envisaged to encapsulate?

Hon MICHAEL MISCHIN: There are a number of aspects to that. For a start, the control order prevents someone from associating with another controlled person. Therefore, we are trying to overcome the stratagem by which two people who are not meant to associate with each other can just step across the South Australian border, have their discussions, make their plans, associate with each other in the broader sense and then step back over to WA, and say, "Hey, we didn't associate in Western Australia, so it doesn't much matter", and so defeat the intent of the law in that respect. Otherwise, in terms of establishing an offence, there are also means by which the acts and omissions that occur outside of Western Australia can still be offences against the law in Western Australia. That is covered under section 12 of the Criminal Code. But that is the point of it.

Hon GIZ WATSON: I understand that. I was more interested in the operation of associating with another person when that association is outside Australia.

Hon Michael Mischin: Well, they go to Bali and do the same thing.

Hon GIZ WATSON: It seems to me that the only way that could be incorporated in the process of assessing whether someone is associated with another person is by some sort of surveillance that is being carried out by the

Australian Federal Police or ASIO, because there is no operation in an international jurisdiction, if members see what I mean. Can the parliamentary secretary explain exactly how he envisages that will work?

Hon MICHAEL MISCHIN: That is a question of policing and what resources the police put into monitoring the movements of people overseas or in other jurisdictions, and that is a matter for the Commissioner of Police. But Australia faces similar issues in respect of the commission of child sex offences overseas, where it is an offence against Australian law for Australians to be involved in committing offences against children in Bangkok. It might be that we do not find out about all of the instances, but if we do, then it is an offence that can be prosecuted if there is the evidence to do it. Likewise, if a person who is under a control order is told not to associate with other people under control orders and they travel off overseas in order to do it privately, it might be that we do not find out about it. But if we do, they are in breach of their control order and they have committed an offence in Western Australia and they can suffer the consequences of it.

Hon GIZ WATSON: It would seem to me that these sorts of far-reaching provisions, which include at least the potential, if not the necessity, to keep an eye on people when they are in the state, go interstate or outside Australia, will be fairly demanding on police resources. Is additional resourcing being provided to the police to meet these additional expectations? I imagine it is basically going to require largely covert operations to follow anybody who has been subject to a control order if we are going to ascertain whether they are complying with it. As I say, to me it is a whole step up from VROs, which are relatively simple for compliance. If the conditions are cast broadly, as these are, it seems to me likely that it will incur a significant resourcing cost and, if it cannot be done, what is the point of writing it in the law?

Hon Michael Mischin: Really? What is the point of writing it in the law?

Hon GIZ WATSON: Because if the government is not going to resource it, it is a totally hollow proposition. Basically this proposition, this definition of "associate, with another person", means that if someone goes to Bali and talks with another person subject to a control order, it is putting the reach of this particular initiative well outside of WA. I would have thought that is going to require a fair amount of resourcing.

Hon MICHAEL MISCHIN: The resources that are allocated to the surveillance of people under control orders, like the resources that are allocated by the police for surveilling these sorts of groups, currently is a matter for the Commissioner of Police. If he requires more resources, that is a matter he raises with his minister. I do not propose to go into the detail of how they go about it, for a variety of reasons, but one is that it is not the sort of stuff to talk about publicly as it would allow those who are trying to evade the consequences of the law to find out about it and be able to adjust their behaviour accordingly.

The idea that somehow we should remove a provision that someone contravenes one of Western Australia's court orders even if they happen to do it in the state next door, outside the three-mile limit or overseas somewhere because it might involve some extra resources is, frankly, irresponsible. The idea that we are saying, "Hey, we are trying to break up these organisations for the harm they do to Western Australians, but if you pop over to Bali and have a conference in full view of everyone, you are not in contravention of our law", would seem to be an open signal for a flagrant abuse of what we are trying to achieve as a government with a sense of responsibility to our citizens.

I remind the member that Australia has legislated for things such as overseas child sex offences. It does not mean we follow every tourist who happens to go over to Bangkok, but if Australian authorities find out either by way of intelligence they have acquired or through information received from other countries, those people will be prosecuted. To say that it is okay to commit these offences overseas because theoretically it might cost a few extra dollars to the Australian authorities so we will let it go, would not seem to be a responsible attitude to take.

Hon GIZ WATSON: To be clear, I support legislation that has gone through Parliament that holds child sexual offenders who commit those offences overseas to account; it is good legislation. I am not questioning that, and I am not saying that this is necessarily the wrong way to approach it. I am simply saying that as law writers and law-makers, we should not think it unreasonable to ask whether this will place an additional imposition on the public purse.

Let me just pan out for a moment here, because I am not the only person to make this point in regard to legislation of this sort—I think it was in a recent Radio National debate on bikie legislation Australia-wide. We could have draconian laws. We could have curfews that said nobody goes out after six o'clock and we probably would have crime figures that were as near to zero as we can get, but as responsible parliamentarians we have to make a judgement about the relative cost versus the relative benefit. The government has not provided any statistics about how many offences we think will be prevented by legislation of this sort. In fact, the second reading speech is the most broadbrush—I think, quite embarrassing—assertion that all bikie gangs are bad and this might be the tip of the iceberg, with no statistics whatsoever. Whereas Australian criminal academic research suggests that bikies commit about one per cent of the crimes in Australia. That is the point I make about costs. When the parliamentary secretary starts saying, "We will include keeping an eye on people when they are overseas," I would suggest it is just a hollow gesture or it is going to result in more cost. I will leave it at that, but

I do not think it is unreasonable to ask whether there is any anticipation that additional resources are going to be applied in what the government is claiming is very important legislation to completely wipe out organised criminal gangs in this state if we are not applying any additional resources. Just to say, "Oh well, that will be operational. We are not going to tell you because that'll tip off the organisations," is quite insulting to the Parliament, to be honest. We have a right to ask those questions and we have a right to get some idea. If it is not anticipated that it will require any more resources, the parliamentary secretary should simply say so.

Hon MICHAEL MISCHIN: I do not want to get into a debate about resources. The Commissioner of Police and the police are supportive of the legislation.

Hon Giz Watson: Of course they are; it is for lazy policing.

Hon MICHAEL MISCHIN: This is lazy policing?

Hon Giz Watson: This makes for lazy policing, and I will go into that later, but I will leave it at that.

Hon MICHAEL MISCHIN: This is lazy policing?

Hon Giz Watson: This legislation makes for lazy policing, because a case can be brought without providing evidence that has to be tested in court. It is simply hearsay evidence—right or wrong.

Hon MICHAEL MISCHIN: With respect, Mr Chairman —

Hon Donna Faragher: Stand up.

Hon Giz Watson: I am happy to stand up.

The CHAIR: Order! I have given the call to the parliamentary secretary.

Hon MICHAEL MISCHIN: The question that was asked was: why is the definition of "associate" in clause 3(1)(b) in the legislation and why is this provision, which provides that if a person breaches an order by associating overseas, it continues to be a breach of an order in Western Australia, included in the legislation if additional resources will not be allocated towards presumably tracking people overseas to see whether they have contravened it? I have already explained the reasons for that. As for the supposed statistics and the like, I have some information from the Operation Jupiter task force, which was a division of Western Australia Police tackling organised crime groups. This information is dated October last year. At that time, Club Deroes had about 51 members, 17 of whom had been charged with 91 offences; the Coffin Cheaters had 51 members, 26 of whom had been charged with 81 offences; the Finks had 13 members, six of whom had been charged with 25 offences; God's Garbage had 51 members, 19 of whom had been charged with 86 offences; the Gypsy Jokers had 56 members, 28 of whom had been charged with 103 offences; the Outlaws had 25 members, 11 of whom had been charged with 26 offences; and the Rebels had 46 members, 28 of whom had been charged with 195 offences. I am not sure whether that quite exceeds the threshold that the Greens think ought to be looked at seriously from the point of view of public order, but Western Australia Police and the government do.

Hon GIZ WATSON: My point is that if the police have come to the position whereby they have charged those people with those offences, the current legislation is working very well.

Hon MICHAEL MISCHIN: This is getting silly, with respect, Mr Chairman. The point is that these organisations still exist, they still operate and their members still feel comfortable calling themselves members of the Club Deroes and the Coffin Cheaters and committing offences, rather than being isolated and treated like the individual street thugs they are. They gang together, act in concert, cover up for each other and support each other when the police are after them. The government takes a somewhat different view on law and order from the Greens. Frankly, I think we should move on to dealing with the bill clause by clause rather than addressing the policy of it, which has already been decided and accepted by the chamber.

Hon GIZ WATSON: With respect, Mr Chairman, the issue is not so much policy, but the way that this bill will operate. I repeat: the current approach that has led to that number of charges—I am not quite sure whether the parliamentary secretary was indicating that those were convictions or charges—indicates that the existing provisions of the Criminal Code are being used against members of whatever organisation, whether as individuals or members of an organisation, in an appropriate way. Those prosecutions will proceed on the ground that the evidence will be tested in court and certain evidence will be inadmissible. This legislation will rely on secret intelligence that will be collected by the police and other agencies, and the respondent will not have an opportunity to test in a court of law the declaration that an organisation is a criminal organisation. That is the problem with this legislation. That is why I say that it is lazy policing. If a charge cannot be brought under the normal, well-respected process whereby an individual is innocent until proven guilty—if they are charged with a criminal offence, that is tested in court in the appropriate way—I suggest that this is a complete departure from our normal way of dealing with criminal offences. It works on an approach of trying to pre-empt things based on hearsay evidence. Obviously, the lawyers in this place will know that that is a fairly major departure from how criminal offending is normally dealt with.

Hon LINDA SAVAGE: I will make a comment about one aspect of what is being discussed. When legislation that seeks to address an extremely serious issue is introduced, and more than one piece of such legislation has been introduced since I have been in Parliament—anyone who has seen the behaviour of criminal bikies, particularly some of their disputes, would know of their involvement in dealing in illicit drugs, as I read into the record yesterday—we all want that legislation to work. When the word "associate" is defined as communicating with another person, it brings to mind the question of how that will be enforced. The question about resources is a legitimate one. I would have thought that, to make this work, very significant police resources will be needed because the police will need to check that people are not associating and are abiding by their control orders. It is legitimate at least to seek an assurance from the parliamentary secretary that the government intends to resource the police to the full extent necessary to translate into a reality the purpose and the mechanism that will be used. Generally, the hopes of members of the public, particularly in the area of law and order, are raised about their protection or the protection of children or in a range of other areas. It is incumbent when we pass legislation such as this that there be an assurance that funding will be made available for the surveillance that will presumably be necessary to know how people with control orders are behaving, particularly given that all members of Parliament have constituents who come to them requesting, for example, more on-the-ground police services and more resources for that area.

Hon MICHAEL MISCHIN: All I can say is that I take the honourable member's point. Plainly, there will have to be some resources provided, if only to apply to the designated authority, so that he or she can do his or her job; that is, to put together affidavits and file them, and to make applications to the courts if necessary to determine applications for control orders as and when they arise. I cannot give a figure as to resources, but whatever resources will be required will, I expect, go through the usual process of being considered and assigned in order to do a policing function that is currently underway. This will supplement, and in many respects might make it easier.

Hon GIZ WATSON: Unless other members have anything before we get to the definition of "conviction", I will move the amendment standing in my name at 19/3 on the supplementary notice paper. I move —

> Page 4, lines 15 to 17 — To delete the lines.

The term "conviction" is defined in paragraphs (a) and (b). The part I wish to delete states —

> (b) regardless of the *Spent Convictions Act 1988* sections 13 and 25 to 27, includes a spent conviction as defined in section 3 of that Act;

This bill provides exceptional powers or exceptional modifications of our normal processes of charging, prosecuting and dealing with matters through the courts, including a proposal to remove the normal circumstances involving a person who has been convicted of an offence and has applied to have a spent conviction recorded against their name or to have their name removed, and therefore have a spent conviction. I will check with the parliamentary secretary for clarification, but I think that actually means spent convictions can be considered in deciding whether a conviction will be brought. Perhaps I will start with that question.

Hon Michael Mischin: No.

Hon GIZ WATSON: Perhaps I might put the question like this: in what circumstances will spent convictions be annulled, removed or not relevant?

Hon MICHAEL MISCHIN: Sorry, I still do not understand that aspect of it. The reference to "convictions" in the sense of a past criminal history occurs at clauses 13 and 57 of the bill. In the context of clause 13, in considering whether the designated authority makes a declaration that the organisation is a criminal organisation, among the factors that the designated authority will take into account can be any criminal convictions of current or former members and persons who associate, or have associated, with members of the organisation. That would mean, having regard to the definition, not only convictions that appear on their criminal history but also any spent convictions those persons may have acquired.

The other context is in the context of circumstances in which a control order may be made. Clause 57(3) states —

> The court must have regard to the following in considering whether or not to make a control order in relation to a person, and if it does, in considering what conditions should be imposed under the order —
>
> …
>
> (c) any criminal convictions that the person has;
>
> (d) any criminal convictions of a person whose association with the person is relied on in the application to support the making of the order;

Those are the two contexts in which it arises. In the first place, the designated authority can consider whether the organisation itself is one that engages in serious criminal activity. The other context is a court taking into account

whether, in the circumstances, a control order ought be made over a person, and the conditions in that control order.

Taking into account spent convictions is not unusual—it happens from time to time for various purposes. In any event, even for the purposes of sentencing someone, although a spent conviction cannot be taken into account in many cases, the behaviour of a person that may have led to a spent conviction can be a relevant consideration in sentencing. All this does is make it plain that that conduct and the fact of that conviction can be taken into account albeit it may have been at the time, conduct that warranted an application for a spent conviction. That is the context in which it is used.

Hon GIZ WATSON: Perhaps the parliamentary secretary could indicate to the chamber what the purpose of issuing people with spent convictions is.

Hon MICHAEL MISCHIN: The Spent Convictions Act 1988 sets out as its policy —

> An Act to make provision for a person who has been convicted of an offence against the law of this State or of a foreign country and who has not re-offended during a specified period to be rehabilitated by limiting the effects of the conviction, to enable that limitation to apply to a conviction against the law of another State or Territory to which a corresponding law thereof applies, to limit the effects of a dismissal or withdrawal of a charge, and for connected purposes.

It is essentially to facilitate rehabilitation. However, if we are looking at the character of an organisation to which that person is a member, and there is evidence that members of that organisation associate for the purpose of engaging in serious criminal activity and pose a threat to the safety and order of the state, then it may be a relevant factor that one or more members of that organisation have, in addition to convictions that appear on their criminal history, spent convictions. As I pointed out, the character of the person, even for the purposes of sentencing by a court, can be determined by past conduct. It may very well be that people have a number of spent convictions for relatively trivial offences, yet the accumulation of those might warrant a consideration of the character of that person and what they are really all about. Those factors may very well be relevant to matters such as whether the organisation of which they are members is really a criminal organisation at heart and/or whether as a member they ought to have a control order made against them, and the character of the control order. They are not the only factors; they are simply one of a range of factors that the relevant authority takes into account. I have to add that if the only material that the authorities could put forward, either for the purpose of a declaration or for the purpose of getting a control order, was the fact that there has been a spent conviction, that would be a pretty thin case.

Hon GIZ WATSON: Indeed. Also, again for clarification, the issue of a spent conviction is a decision of the court —

Hon Michael Mischin: Or the Commissioner of Police, if the offence is relatively minor.

Hon GIZ WATSON: So it seems to me that one tool that is included in the government's set of legislative tools to deal with offending behaviour is the tool that says that if a person has not reoffended and is basically behaving himself, he can apply for a spent conviction. As the parliamentary secretary has pointed out, the definition of "conviction" also applies to the circumstance in which a control order can be made, so it applies also to an individual. I have moved this amendment to remove this particular component because, as the parliamentary secretary has just said—I will not try to paraphrase exactly what the parliamentary secretary said—if the case rests on an offence that was subject to a spent conviction order, that would be a fairly slight piece of evidence compared with other things that might be used to determine whether an organisation was to be a declared organisation or whether a person was to be subject to a control order. In my view, there is a reason why we have the Spent Convictions Act. There is a reason why individuals are provided with the opportunity for the court to recognise that they have not reoffended and to be issued with a spent conviction. It is a bit like removing the provision of parole, as we have seen occur in the justice system in Western Australia of late. Parole offers a carrot to offenders to behave in a certain way and to rehabilitate within the corrective system. In the same way, a spent conviction is an inducement—a carrot, I guess—to a person to not reoffend. If we are just going to wipe out the provision for a spent conviction as one of the tools that the government can use, I think that is an unnecessary and inappropriate change. With those words, I urge members to support the amendment.

Hon MICHAEL MISCHIN: The government will not be supporting the amendment. A couple of things need to be said. Firstly, in some circumstances, a spent conviction can be granted at the time of the conviction if the offence is considered by the court to be relatively insignificant. That does not mean that the person has been rehabilitated. It is simply a facility to remove the offence from the person's record at the time if the offence is relatively trivial, and in the hope that the offence is a one-off. Hon Giz Watson has said that the person may not reoffend in the future. Well, people do reoffend frequently in the future, notwithstanding that they have had a spent-conviction order made in the past. Therefore, that would seem to the government to be a relevant consideration when we are dealing with the policy issues in this bill.

Secondly, spent convictions can be taken into account for a variety of purposes. I have already indicated that although the conviction itself cannot be taken into account, the behaviour that underlies a conviction that has been spent may at some time in the future form a basis for understanding the person's character and may be relevant to sentencing. It is a relevant consideration in the broader sense. That is why the government believes that in considering matters germane to the policy of this bill and its objectives, a spent conviction is a relevant consideration that ought to be available to, and taken into account by, the designated authority or court, and given such weight as the designated authority or court thinks should be given to it when dealing with these sorts of issues.

Thirdly, as the honourable member no doubt knows, there are already a number of exceptions in statute as to whether a conviction should be treated as spent. I refer the member to schedule 3 of the Spent Convictions Act 1988, which provides in clause 1 —

> The persons specified in the first column of the table to this subclause are excepted from the provisions of Part 3 specified in the second column in respect of all spent convictions.

The persons and bodies that are excepted from these provisions include the Prisoners Review Board, the Supervised Release Review Board and the Mentally Impaired Accused Review Board. It also includes a person being considered for appointment as a justice of the peace under the Justices of the Peace Act 2004. It would be absurd, I would suggest, that a person who wanted to be a JP and administer the law ought not to have their spent convictions taken into account as a factor that might be relevant to their appointment and their character. It also includes a person appointed as or being considered for appointment as a constable or police auxiliary officer or Aboriginal police liaison officer; a person appointed as or being considered for appointment as a special constable or police cadet; a person appointed or being considered for appointment by the Commissioner of Police acting as an employing authority to provide services to persons who are not of full legal capacity or to deal in any manner with persons who are not of full legal capacity; a person who is employed or is being considered for employment as a prison officer; a person who holds or is applying to be issued with a high-level security clearance; and a person employed or being considered for employment under the Gold Corporation Act 1987. Another two dozen or so examples are given there. Therefore, it is a consideration that is relevant to the issues that the designated authority and the court may consider at some point. These are not exclusively the conditions, as I have mentioned. If that were the only material that the Commissioner of Police or the Corruption and Crime Commissioner could put forward as a basis for a declaration or for a control order, that would be a pretty thin case—in fact, I would have thought that they would not bother. But that is different from saying that it is not a relevant consideration that ought to be available to those authorities in dealing with the important issues that they need to determine. Therefore the government will not be supporting the proposed amendment.

Amendment put and negatived.

Hon SUE ELLERY: I move —

> Page 4, lines 28 and 29 — To delete "a judge or retired judge currently designated under section 26" and insert —
>
> the Commissioner of the Corruption and Crime Commission

Members will recall that during the second reading debate I flagged my intention to move this amendment, and it was the subject of some conversation across the chamber during that debate. The parliamentary secretary indicated in his summing-up and reply that the government would not be supporting this amendment. I have had a conversation behind the chair, and I am fairly confident that I know what the will of the house will be. Nevertheless, this is an important issue that we believe needs to be addressed. If the house is not of the view that the proposition that I am putting is the way to address this issue, I believe that will leave the bill with a point of weakness that may enable those who seek to challenge this elsewhere to have greater success than they may otherwise have had.

The term "designated authority" is currently defined in this clause as, "means a judge or retired judge currently designated under section 26". My amendment would have the effect of the clause reading that the designated authority is the Commissioner of the Corruption and Crime Commission. If we want to follow the use of the term "designated authority", we would start in clause 3 where it is defined. We would then move to clause 26, which is referred to in the definition. Clause 26 is "Designation of judges or retired judges to determine applications". I refer to applications for an organisation to be declared a criminal organisation. Clause 26 reads—

> (1) The Governor may, in writing, designate one or more judges or retired judges for the purposes of this Act.
>
> (2) The Governor cannot designate a judge or retired judge under this section unless —
>
> (a) the judge or retired judge has consented in writing to the designation; and
>
> (b) the consent is in force.

(3) The period of designation and, in the case of a retired judge, the terms and conditions of appointment of a designated authority are as set out in the instrument of appointment.

Clause 27 deals with designations that, once made, may be terminated. I will read out part of Clause 28 because it goes to part of the objection raised by members as to why they cannot support the amendment in my name. Clause 28 is headed "Designated authorities not subject to control by Executive" and reads—

> The selection of a designated authority to exercise any particular function conferred on designated authorities by this Act is not to be made by the Attorney General or any other Minister of the Crown, and the exercise of that particular function is not subject to the control and direction of the Attorney General or any other Minister of the Crown.

If there were any question as to whether the person defined in clause 3 of the bill may be subject to the control and direction of the Attorney General or any other minister of the Crown, clause 28 explicitly states that he shall not. The remainder of part 2, division 4 states that any designated authority may determine an application for the renewal or revocation of a declaration and that the designated authority is entitled to protection and immunity. Clause 31 states that the functions conferred on the designated authority are conferred in a personal capacity and not as a court or a member of the court. This is that confusing legal quirk whereby the person who is a sitting judge may be appointed. He is bound to protect the integrity of the court and bound by all the provisions that apply to the court. However, he will not act in that capacity when he is so designated; rather, he will act in a personal capacity—not as a court or a member of the court—and anything done is not to be taken by implication to be done by a court.

Clause 32 refers to the record of proceedings. The definition is one that says who shall hear an application for an organisation to be declared a criminal organisation. That person can be a judge or a retired judge despite the fact that he may be a sitting judge. He will act in his personal capacity.

The bill also provides that when hearing an application as to whether an organisation ought to be declared a criminal organisation, the designated authority can, in certain circumstances, rely on what is referred to as protected criminal intelligence information. That is the provision in the bill that says that a person who is a sitting judge, but who is acting in his personal capacity and not acting as a sitting judge when hearing an application to declare an organisation a criminal one, may in certain circumstances—once he has made a decision that it is appropriate that the information be treated as protected criminal intelligence—rely on evidence that is not tested under the normal rules of evidence. That evidence will be heard in secret and will be treated as secret. The evidence relating to a person is not something that the person can test. He cannot even know what it is. Ultimately, he will know what it is—this is somewhere else in the bill—because it has to be in the judgement. The parliamentary secretary might correct me if I am not right. The point I am making is that the person may well be a sitting judge and in his capacity as a sitting judge he is bound to protect the integrity of the court and do all the things in accordance with the tradition, rules and conventions that apply to a court. However, in this capacity, he will not be bound by those things and will act in his personal capacity. When so acting in his personal capacity, he can reach the conclusion that an organisation is to be declared a criminal organisation on the basis of information that is not subject to the normal rules of evidence. The respondent to the application for a declared criminal organisation will not necessarily know about that evidence and will have no opportunity to test that evidence or provide evidence in response. If we accept that that will happen then in this instance that persona designata, who in all other elements in his connection to the court and his exercise of judicial power does so under the conventions and rules that apply to the court and who is bound to protect the integrity of the court, makes that decision. He decides on the basis of the secret information he has received—the protected criminal intelligence information—that he should declare the organisation to be criminal. Okay—so declared. The declaration will be published and everyone will know about it. In the next stage of proceedings the state may want to take action now that the organisation is captured under the legislation. It will need to make application to take further steps. It may believe it has grounds to take certain action because the declared criminal organisation, so declared, has done something that the state wants to fix. It may make an application to the court and that matter will be heard by a judge who is a judge and who is bound to act in the capacity of a judge, who is bound by the conventions and rules of the court and who is bound to protect the integrity of the court. The next decision is made according to the normal rules of evidence of the court, except that part of the evidence that the person may rely on is evidence of a declaration that the organisation is a criminal organisation.

We will go from a circumstance in which a person is acting in his personal capacity and is not bound by the rules of evidence, persona designata, and who can make a decision on the basis of evidence that is not tested to a circumstance in which another judge, who sits bound by the rules, is asked to make a decision about whether the organisation, now declared to be a criminal one, has done something against the state on which it is entitled to take action. It may well make that decision based on evidence that is put before it and tested et cetera. However, one of the ways that decision may be made is by relying on the existence of the declaration once signed, because the declaration, once signed, proves some element of an offence. We say this particular definition makes the bill look weak and more likely open to challenge because it goes to the question of the integrity of the court. We are

saying that something needs to be done to fix this weakness in the fabric of the bill, so that someone cannot poke something sharp through it in the High Court and tear it asunder. That was beautifully and elegantly put, I think. It just came off the top of my head.

Hon Michael Mischin: That is a symphony.

Hon SUE ELLERY: Beautiful! However, I am being frivolous about something that is absolutely not frivolous at all.

Therefore, the persona designata makes a declaration, the existence of which can be used by another judge acting as a judge to meet the tests of the rules of evidence; and that difference is the discrepancy that we say may be relied upon by others to undermine the integrity of the court. Rather than put a sitting or a retired judge who is not bound and who acts in a personal capacity in that position, we suggest the best person for the role is the Commissioner of the Corruption and Crime Commission. During the course of the second reading debate, the issue of appropriateness was raised because of the question of whether that role is deemed to be a part of the executive, and under the separation of powers that matter was tested in another case in another jurisdiction and found wanting. Members do not need a lecture from me on the separation of powers, but the generally understood conventions of that separation include the legislature—the Parliament; the executive, which is the ministry and those public service agencies reporting to and directed by ministers; and the judiciary. The separation of powers, in our model, is not entirely neat because the ministry is drawn from the Parliament, and there is therefore a little blurring at the edges. It is not as neat as it might be.

The CCC is not a public service agency reporting to a minister, nor can it be directed by a minister. That is explicit in the legislation. Its act provides that it is an independent agency reporting directly to the Parliament. The CCC does not have an investigative role when it comes to organised crime, which is a point of some contention in Western Australia, but that is a debate for another day. The CCC as it is currently structured and legislated for does not have an investigative role. Will we find ourselves in a pickle with the CCC doing the investigation and then sitting in judgement? We will not, because the CCC does not investigate. It cannot investigate; it is prohibited from investigating by its legislation. Although the CCC can monitor the use of certain powers, it cannot play any role in the investigation itself. If the argument is—as I think it has been to date—that the government deems the CCC to be a part of the executive, that leaves us in somewhat of a quandary as well, except that I say it is abundantly clear that the CCC is not an organisation reporting to, nor able to be directed by, a minister. More than that, if members refer back to clause 28, in any event the bill makes it explicit that whatever else exists —

> … the exercise of that particular function is not subject to the control and direction of the Attorney General or any other Minister of the Crown.

There it is; it is explicitly included in clause 28.

For those reasons, the opposition thinks that the very existence of the persona designata and the tricky situation in which a judge sitting in the capacity of a judge can rely on as evidence the making of a declaration by a judge not sitting as a judge and not relying on information tested under the rules of evidence leaves the bill open to challenge. We say that whether the government likes or does not like our proposed amendment to nominate the Commissioner of the CCC, that weakness exists and the way to fix it—a way that does not undo or cause offence to the separation of powers—is to make the Commissioner of the Corruption and Crime Commission the persona designata.

We have to do something to fix that hole in the legislation or this bill will make it easier and create an opportunity for those people it intended to stop thumbing their noses at the system. For those reasons, I urge members to support the amendment.

Hon MICHAEL MISCHIN: The government will not support the amendment. In saying that, I do not for a moment criticise the spirit in which that amendment has been proposed, which I accept has been done out of an understanding of the merits of the legislation in its broadest terms and the policy that it is trying to effect, and is trying to protect it from a challenge that may defeat the purposes for which it has been advanced. However, on the advice the government has, the proposed amendment, while not guaranteeing that the bill would be susceptible to challenge, makes it more likely that it would be challenged. The two governing cases are those of the State of South Australia v Totani (2010) 242 CLR 1, and Wainohu v State of New South Wales (2011) 243 CLR 181. In particular, this legislation has been modelled on the outcome of the "New South Welsh" case—if I may describe it as that—of Wainohu. In the case of Totani, the South Australian legislation was held partly invalid and the reason related to the circumstances of the structure of the act in which essentially the Attorney General of South Australia declared whether an organisation was or was not a criminal organisation. The High Court held, in effect, that the South Australian act required courts making control orders based on those declarations to act at the behest of the political branches of the government, the executive in a sense, in making orders that created new rules of conduct consequential upon there being a declaration by the political arm of government. And that was seen to be incompatible with the constitutional roles of the state courts. The New

South Wales case was not of that character. It provided that the declaration was made by an eligible judge of the Supreme Court of New South Wales and provided for control orders to be made by the Supreme Court of New South Wales if that court was satisfied that there were sufficient grounds for making the order—a similar scheme to what we have, except that the problem was that no reasons were provided by the designated authority for the decision. That has been corrected in our legislation. We have potentially chosen not only a judge, but also a retired judge of the court. It is not quite right to say that they are acting in a personal capacity. It is more analogous to a situation in which a judge may be called upon by virtue of their office, although not sitting as a court, to carry out certain functions. One of those functions that immediately springs to mind is issuing a search warrant. A justice of the peace, magistrate or judge can be approached to issue a search warrant. They would be acting in their capacity as a judge but not as a court.

Hon Sue Ellery: The term "personal capacity" is in the bill. That term is in clause 31.

Hon MICHAEL MISCHIN: I interpreted the member as saying that it was their personal capacity as a private individual.

Hon Sue Ellery: No; I was using the terms in the bill.

Hon MICHAEL MISCHIN: We have clarified that. I misinterpreted the context in which it was being said. My apologies.

The point is that we have adopted the New South Wales model, which has been upheld by the High Court with one qualification. We have fixed the problem that was exposed in the New South Wales act and regard that as a suitable means of effecting the scheme of the act. The danger with replacing as a designated authority a judge or a retired judge with the Corruption and Crime Commissioner is that, amongst other things, the Corruption and Crime Commissioner and the Commissioner of Police can make applications to the Corruption and Crime Commissioner to declare an organisation a criminal organisation, which I would have thought would have been a conflict of interest. We would have the rather bizarre circumstance of the commissioner's agent coming to the commissioner and saying, "I think the local darts club could be a criminal organisation. I have put all this material together. What do you think, commissioner?" The commissioner could say, "It looks like you are right." That would expose an awful situation in that, even if the commissioner was doing his best to remain objective about it, nevertheless, he would be approving the work of one of his staff. Furthermore, an enormous number of consequential amendments would need to be effected in order to achieve that. In the government's view, it would potentially expose the scheme of the act to a greater degree of successful challenge, not absolute, and it would militate against what has been seen to be, if one interprets the High Court judgements correctly, an effective formula that has already been tested in its essentials by the High Court and not found to be wanting. In those circumstances, the government will not support the amendment. Although the government thanks the opposition for its desire to improve upon the scheme of the act and to perfect it if possible, we do not see this as the best way to go.

Hon SUE ELLERY: That is not dissimilar to what the parliamentary secretary said in his summing-up. I anticipated that that would be the government's response.

I am interested in what the parliamentary secretary thinks about the notion that that is the weak point of the bill. At the second point, once an organisation has been so declared, perhaps relying on protected criminal intelligence, a declaration is made and the state then decides it needs to do something about that organisation, so it takes an application and it is heard by a judge acting in his proper full capacity as a judge —

Hon Michael Mischin: Acting as a court and receiving admissible evidence, doing a different function and having different criteria.

Hon SUE ELLERY: They may rely on the existence of the declaration itself. They do not get to test what went behind that.

Hon MICHAEL MISCHIN: In determining the question of whether there ought to be a control order in the circumstances and what the conditions of that control order ought to be, the court is exercising a different function, and is hearing evidence of a different character. It is of course relying on the fact that there is an organisation somewhere that has already been declared to be a criminal organisation. Among the things it would have to determine on the evidence, however, dealing with an individual, is whether that person is actually a member of that organisation and then whether a control order is appropriate and so on and so forth. They are different functions. To the extent that the basis for their inquiry is that a criminal organisation has been identified, it is the starting point, but that is by no means exclusive. They would be hearing different types of evidence rather than the evidence that was considered by the designated authority. It may be that particular things have been put to the designated authority that are confidential and, on the basis of that information, the declaration is made. If someone were to apply—for example, for the Leader of the Opposition to have a control order against her because she is a member of that organisation—the applicant would have to establish that for a start and have to do so on the basis of admissible evidence. Confidential evidence may be involved, but that is

not something that the courts are unused to dealing with. It is something that is provided for and the courts have already found it to be an appropriate avenue to be taken in certain times and cases. How the court deals with that is a totally different issue, but that is something that would not rely entirely and exclusively on the fact that there had been a determination. It is a totally different issue.

Hon SUE ELLERY: I will not belabour the point, but we are on the record as saying that we think this is a point of weakness in the legislation. There are people circling, waiting for this to go through so that they can take it somewhere else. We think this is what they might rely on.

Hon Michael Mischin: You may be right, but the only way we will find out is once it is passed, once there is a challenge and once it is determined by the court, but our advice is to the contrary.

Hon GIZ WATSON: We do not support the amendment. I understand that the Corruption and Crime Commissioner is a member of the executive on the basis that if it is not a court and it is not parliamentary, the catch-all that catches everything else is the executive. It is not the same as a government department but it is part of the executive, as put to me by my legal adviser.

My proposition was that this decision should be made by the Supreme Court, whether that is a judge sitting alone in the Supreme Court or not. The basis for that is that the evidence can be tested. An appropriate test can be conducted, which would maintain the integrity, independence and authority of the court. I would suggest that the instance of whether organisations ought to be declared criminal organisations is not something to be taken lightly or frequently. I would argue there is plenty of time for a court to consider an application for an organisation to become a declared organisation. That is our position; we do not support the amendment. I have another comment, but we might deal with the amendment and then I will come back to it.

Amendment put and negatived.

Hon GIZ WATSON: Still on this particular definition of the designated authority, I wanted to clarify my concerns about retired judges that I raised during the second reading contribution, because I might not have expressed them quite clearly enough. Retired judges are appointed to certain positions to carry out certain functions and one of them, of course, is to serve on a royal commission, and I think I am correct in saying that there is a cross-reference in this bill to the powers of a commission; am I correct in that? Yes. I think it refers to section 5 of the Royal Commissions Act 1968. That section 5 deals with the power to appoint commissions —

> Without in any way prejudicing, limiting, or derogating from the power of the Governor to make or authorise any inquiry, or to issue any Commission to make any inquiry, the Governor may, under the Public Seal of the State, appoint any person or persons to be a Royal Commission, generally or upon such terms of appointment as the Governor thinks fit, —

And this is the important part —

> to inquire into and report upon, and, where so required or authorised by terms of appointment, to make recommendations in respect of any matter specified in the appointment.

The point I make here is that the role the retired judge might undertake in a royal commission involves the making of inquiry, report and recommendations. This role of the designated authority is about making a judgement and actually having the power to say that an organisation is declared a criminal organisation. It is not a recommendation to go somewhere else where a decision is made. He or she is the decision-making authority; therefore, it is not comparable with the role that is performed by a retired judge if he or she is appointed to head a royal commission. I apologise and I did not make that clear enough. I was not being disparaging of the capacity of retired judges; I was simply pointing out that the two roles are different. I think it is a confusing role to create—that is, a retired judge who is acting in a personal capacity. Again, I think this is the nub of it and Hon Sue Ellery has made the same point: if there is a High Court challenge, I think it is likely to revolve around this. It creates a similar set of circumstances to those that were identified in one of the court cases in which the judge in that case said time and again that it was about the independence, integrity and authority of the court to perform functions that should be rightfully the authority of a court. I just wanted to clarify that understanding about why the role is not the same as that of a retired judge heading up a royal commission.

Hon MICHAEL MISCHIN: I think I have covered this at some length; it was not just a reference to retired judges being on the Corruption and Crime Commission. Judges retire for a variety of reasons and they are not infrequently brought back into service for specific purposes. We have three retired judges dealing with the Bell appeal at the moment, which is a matter of some considerable complexity. That involves making judicial decisions and therefore I do not see why that is beyond their capacity. We have retired judges occasionally brought back as auxiliary judges and the like for the District Court or the Supreme Court. We have magistrates who are returned to service.

Hon Giz Watson: But aren't they then operating in a judicial capacity?

Hon MICHAEL MISCHIN: They are retired before they are brought back to act in that capacity. What is the distinction between their capacity to do that job and their capacity to do a job as a designated authority that they

cannot do? They would be able to do it on the day before they retire, but the day after they retire, suddenly they should not be eligible for consideration for doing that job. I just do not understand that; therefore, the government will not support it. This allows for greater flexibility. In fact, once a retired judge is brought back in this capacity, I would have thought that it would theoretically increase the distance between the position the person occupies and their connection with the judiciary, and result in even more independence, at least by way of perception, from those who are serving judges on the court. Therefore, the government will not support the amendment.

[Quorum formed.]

Hon GIZ WATSON: I repeat again that I am not saying that the retired judges do not have the capacity; it is about the capacity in which they operate. This bill is not about a retired judge serving again as judge or in a judicial capacity. It is about a retired judge being asked to act in a personal capacity and it creates a novel and different set of circumstances that do not respect the independence, integrity and authority of the court to make certain decisions.

The CHAIR: In respect of this particular amendment, I draw members' attention to standing order 88, which clarifies what I am about to say. Given that the issue of the retired judge was mentioned in the previous amendment and put forward and defeated, I will rule that particular amendment null.

Hon GIZ WATSON: Just for clarification about this procedurally, Mr Chair, are you suggesting that it would have been more appropriate to debate the general question about this definition before we moved to the amendment? I just want to know whether that is what you are suggesting.

The CHAIR: The point I am trying to make out of standing order 88 is that the committee has decided not to delete those words, as proposed in the amendment from Hon Sue Ellery. In turn, if we take Hon Giz Watson's amendment, we are in effect asking the committee to do it now also.

Hon GIZ WATSON: I am not proposing an amendment; I am discussing the words in this particular clause. I have not got an amendment.

The CHAIR: It is the amendment below, sorry.

Hon GIZ WATSON: I apologise. Yes, I have an amendment on the supplementary notice paper, but I have not moved it and I do not intend to move it. That is probably where the confusion arises. Perhaps while I am on my feet, can I seek to withdraw that amendment standing in my name?

The CHAIR: You have clarified that. Given that the member did not move that amendment, it falls away. Did the parliamentary secretary wish to make a response to that?

Hon MICHAEL MISCHIN: No, thank you.

The CHAIR: We now move to the next amendment on the supplementary notice paper in the name of the parliamentary secretary.

Hon MICHAEL MISCHIN: I move —

> Page 4, lines 30 and 31 — To delete the lines and insert —
>
> ***firearm*** —
>
> (a) has the meaning given in the *Firearms Act 1973* section 4; and
>
> (b) includes ammunition as defined in that section;

The rationale for this amendment is a quite simple one. If we are talking about firearms, we may as well include the ammunition to be used in those firearms, if a firearm is going to be taken away from a person subject to a control order.

Amendment put and passed.

Hon GIZ WATSON: I want to raise a question about the definition of "member", which appears in clause 3 at the bottom of page 5. It states —

> ***member***, in relation to an organisation, includes —
>
> (a) in the case of an organisation that is a body corporate, a director or an officer of the body corporate; and
>
> (b) in any case —
>
> (i) an associate member or prospective member (however described) …

How is "prospective member" defined? Is it someone who has thought about it or someone who has written a note to an organisation saying that they would like to apply for membership? What is a "prospective member"?

Hon MICHAEL MISCHIN: Perhaps if I use an example of a "nom", which is short for nominee, to an outlaw motorcycle gang, who is someone who expresses a desire, an interest, to become a member. They essentially are on an apprenticeship or a period of vetting before their application is considered and they are accepted. It is someone who wishes to associate with that organisation, who has taken steps to do so and to identify themselves with that organisation and who is simply pending acceptance. How that is determined would be a question of fact based on the material. I do not think there is a hard and fast formula for deciding whether someone is, for example, a potential member of a political party, short of them putting in an application and the like. Those sorts of formalities may not necessarily be available in criminal organisations, but a decision on whether someone becomes a member of that organisation is determined by a variety of factors.

Hon GIZ WATSON: Could the assessment of whether a person is a prospective member be based on hearsay evidence?

Hon MICHAEL MISCHIN: It would come up in two ways, potentially. When considering the membership of an organisation in an application for a declaration to state that it is a criminal organisation within the meaning of the bill, one would consider those people. In that sense, the designated authority might well have regard to hearsay evidence to decide whether the members of that organisation do in fact associate for serious criminal purposes. But in terms of a control order against someone that affects them personally, then no, because a control order would have to be dealt with by a judge of the Supreme Court using the rules of evidence that are applicable to any other application before the court. Hearsay evidence would not be used unless there was a particular exception under the Evidence Act that applied to legal proceedings generally—those are fairly narrow circumstances. If the member is talking about simply hearsay assertions through witnesses that so-and-so is a nominee for an organisation and they should have a control order taken out against them, no, that would not be the case. The weight that is given to the fact that they may be a nominee to join an organisation would be up to a judge, taking into account all the other factors as specified in the act.

Hon GIZ WATSON: In the assessment by a designated authority of an assertion that a person is a prospective member of an organisation, in considering whether to declare it a criminal organisation, the judge could rely on secret intelligence or information obtained from other persons of interest, or whomever. It seems to me, because of the nature of organisations which operate outside of normal laws and normal rules and which have a code of silence, that they will not say much about whether they have a membership book. I cannot see how membership by somebody of such an organisation would be recognised, although I guess some of them are fairly obvious as they advertise it and have a particular identifier. However, if we are talking about not just motorcycle organisations, but also other organisations, it might be really hard to determine whether somebody was considering joining a group or was in some sort of relationship that might lead them to be formally recognised as a member of that group.

I guess I am putting to the parliamentary secretary that including prospective members in the definition of "member" makes the whole thing very tenuous. I have not come across anything in legislation previously that refers to defining "member" as a "prospective member". To say that a member of a political party includes a prospective member of a political party is actually nonsense, to be quite honest. It almost contradicts the normal meaning of "member", in my view. Someone is not a member until they are a member, because they have not paid up or performed certain functions or signed —

Hon Sue Ellery: Done the initiation.

Hon GIZ WATSON: Yes, or not done the initiation or whatever it is. When is a member a member? Is it when we decide they are a member, even though it might just be a thought in the back of their head at this point in time? I am just saying that it will be incredibly hard to assess.

Hon Michael Mischin: It might be hard to prove, but that does not mean that it is not impossible and that it should not extend to that sort of situation.

Hon GIZ WATSON: Why is it sufficient to have "member" without including "prospective member"?

Hon MICHAEL MISCHIN: The extended definition of a term such as "member" is not unknown to the law and is not unknown to the criminal law. How it is established that someone falls within that extended definition is a matter of fact and evidence. In this case, we are attempting to damage organisations in which people associate for the purpose of serious criminal activity and which are a threat to the safety of the people in this state. Accordingly, we want to embrace in the question of whether an organisation is a criminal organisation not only paid-up members of that organisation who wear the full outfit—the uniform, as it were—the patches, the jackets —

Hon Giz Watson: Suits.

Hon MICHAEL MISCHIN: — suits sometimes, or whatever the gang may regard as the distinctive means of identifying themselves amongst the public and their peers, but also the wannabes and the prospective people who want to and are trying to join but who have not quite reached the stage of being fully fledged and paid-up

members. Those people, no less than the actual members, give organisations their strength. I have been reminded of a recent case in which someone committed a serious assault on another person and explained that that was the sort of thing that people are called upon to do when they try to become members of a particular organisation. It is well known that there are initiation processes for some of these criminal organisations that involve the commission of crimes at direction so that they can qualify themselves and show that they are serious for the purpose of being members who can be relied on to carry out orders without question and who have the commitment to be criminals, just like the people they want to join. Those are the people we are trying to embrace in the definition for the purpose of not only deciding the character of the organisation that they are trying to become members of, but also, in due course, if it becomes a necessity to do so, having control orders taken out against them. Whether someone falls on one side of the line or the other in the application for a control order will be based on the strength of the evidence presented to a judge of the court and will be determined in accordance with the considerations set out in the legislation. I would have thought that when the character of an organisation comes to be adjudged, the sorts of people who want to become members of it are pretty good indicia of the character of the organisation that could be taken into account by a designated authority.

Hon GIZ WATSON: I think I heard the parliamentary secretary say that this will be tested on facts. I can accept that for the application for an order, but those facts will never be tested in a court when declaring an organisation to be a criminal organisation, and the person who is considered to be a prospective member of the organisation will not even necessarily know that they have been so named or identified. Am I right?

Hon MICHAEL MISCHIN: Probably not, and it does not carry any consequences for them directly. It is a question to be determined about the character of the organisation, not the person involved. It may be that some of the information that is passed to the designated authority anecdotally may have greater weight or less weight. That is a question for the designated authority to determine in order to decide the character of the organisation. If I were to ask the member whether a particular bikie gang gets up to no-good criminal activities, she would probably be able to say yes, but she would be working on hearsay. There is nothing different about that, except that it would be examined and it would be the basis of police intelligence and some of it may be confidential information and some of it may be established by other means. It is a different thing. That does not have any direct consequences on a membership. What does have consequences for a member or prospective member is when a control order is taken out against him or her.

Hon GIZ WATSON: A control order could be brought against a prospective member who may not have committed any offence; is that correct?

Hon MICHAEL MISCHIN: An application can theoretically be brought against anyone; whether one is granted by a judge would depend on the circumstances set out in clause 57 and on the weight that the judicial officer gives to the evidence that is presented to support any or all of those circumstances.

Hon LINDA SAVAGE: In my contribution to the second reading debate, I made a comment about the definition of "organisation". I asked whether consideration had been given to including in the bill the number of people who would form an organisation or group. I note that one of the comments made by the parliamentary secretary in response to another member's question was along the lines that an organisation would be an organisation because it was organised. When I read the Queensland report that was prepared and its section on Canada, I noted that some provisions that had been introduced in 1997 were amended to deal with the Hells Angels and bikie organisations to include a more specific definition that a group, however organised, comprises three or more persons inside or outside Canada. Is there any reason why we have not provided in this legislation the number of people who would comprise a group? Do two people comprise a group or organisation?

Hon MICHAEL MISCHIN: One would have thought that it would be unlikely that two people would be considered to be a group for the purposes of the term as defined in clause 3. The United Nations Convention against Transnational Organized Crime refers to three or more people. The member pointed out that Canada refers to three or more people. New South Wales has a definition identical to, or very similar to, the one in this bill. Our definition has been modelled on the New South Wales act, which was considered by the High Court. The High Court admittedly may not have turned its mind to the question, but it certainly was not the subject of a challenge and did not exercise any concern for the purposes of trying to overturn that legislation. Arguably, it could be changed to specify three or more people or even two or more people. Arguably, we might be looking at an organisation which, although it consisted of quite a number, may have fallen into unpopularity amongst its peers and has dropped to below three for some reason but which is looking at recruiting extras in the future. It is wise to ensure that that does not happen, in pre-empting that. It allows for certain flexibility. There may be a way of specifying numbers and eliminating the doubt, but at the moment the government is content with the way it is. As far as I am aware, there is no proposed amendment to refine that.

Hon GIZ WATSON: Again for clarification, I think what I hear the parliamentary secretary say is that a "group" could be defined, in the context of this definition of "organisation", as two people.

Hon Michael Mischin: It could say "consists of two or more persons" or "three or more persons".

Hon GIZ WATSON: Yes. As stated in the second reading speech, this is about smashing gangs. I would have thought it had achieved its aim once there were only two members left!

Hon Michael Mischin: Hopefully it would, but we also would not want them to be reconstituted.

Clause, as amended, put and passed.

Clause 4: Purposes of this Act —

Hon MICHAEL MISCHIN: I move —

> Page 9, lines 2 and 3 — To delete "organisations and other persons who engage in serious criminal activity." and insert —
>
> organisations.

This is a consequence of an amendment that was passed in the other place. Clause 57(2) states in part —

> Any of the following is a ground for making a control order in relation to a person …

There was a paragraph (d), which stated —

> that the person —
>
> (i) engages in, or has engaged in, serious criminal activity; and
>
> (ii) regularly associates with other persons who engage in, or have engaged in, serious criminal activity.

Paragraph (d) was deleted. The omission of that paragraph requires the elimination in clause 4(1)(b) of the bill of that extended reference. Paragraph (b) will again be limited to the same terms as is contained in amended clause 57(2). It is really a tidy-up amendment to reflect amendments that have been passed in the other place.

Hon GIZ WATSON: I support the amendment. As this will now read, it means that the purpose of the act, as well as to disrupt and restrict the activities of organisations, is to protect members of the public from violence associated with those organisations. That now does not extend to other persons who engage in serious criminal activities. That is as I understand it. Therefore, we are being very clear that this is about criminal organisations, not persons engaging in serious criminal activity—is that correct?

Hon Michael Mischin: That is so.

Hon GIZ WATSON: I support the amendment.

The CHAIR: The question is that the words to be deleted be deleted.

Hon GIZ WATSON: Clause 4(2) states —

> Without derogating from subsection (1), it is not the intention of Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest, dissent or industrial action.

I am very pleased to see that is there. I understand that was as a result of an amendment in the other place. How does the way this is expressed—which reaffirms this bill is not intended to impact on people's rights to participate in advocacy, protest, dissent or industrial action—tie in with clause 101, in which the definition of political activity and industrial activity is more specific? I refer to clause 101, "Certain associations to be disregarded for interim control orders". In paragraph (b), the terminology is —

> associations occurring in the course of a lawful occupation or business or lawful political protest or lawful industrial action;

I thought there would be a reason that in clause 101 it is not just "political protest or industrial action", whereas in the overarching purpose of the bill it is couched more broadly. It does not make a distinction between "protest" and "lawful protest". This might be because this is an amendment. I am checking whether the parliamentary secretary wants to be consistent here. I would have thought that clause 101, when we get to it—I am flagging it now—should be expressed in similar terms; that is, "Associations occurring in the course of a lawful occupation or business or political protest or industrial action." That would be consistent with the purposes we are now about to establish.

Hon MICHAEL MISCHIN: Before I address that, having heard out the honourable member, it appears to relate to a different issue from the one we are dealing with. I ask the Chair to put the question that the words proposed to be inserted be inserted. Then we can dispose of that and I do not have to worry about that.

The CHAIR: Members, I will certainly proceed along those lines. The question is that the amendment be agreed to.

Amendment put and passed.

Hon GIZ WATSON: My apologies, Mr Chair. I had not realised that we had missed that step.

I am just saying that it seems to me that this is kind of a pre-eminent clause, because it is about the purposes of this act. The purposes of this act have been amended, and well amended in my view, to express that Parliament is not intending to diminish the freedom of persons in this state to participate in certain activities—namely, advocacy, protest, dissent or industrial action. However, later in the bill, at clause 101, we restrict that to lawful industrial action and lawful protest. Maybe we can deal with this matter when we get to clause 101, but I am flagging it now because I would have thought that these two clauses ought to be consistent.

Hon MICHAEL MISCHIN: I am sure that we will deal with it in the context of clause 101 and nothing I say is going to alter that. But I should make it clear that clause 4 sets out the general application and philosophy that underlies the interpretation of the whole piece of legislation for the guidance of all of those who will operate under the act. It is making it quite plain not only what the objectives of the act are, but also what it is not intended to effect, so that not only law enforcement agencies contemplating the policing of the act and making applications under it, but also designated authorities and the courts when dealing with questions of control orders, are aware of the purposes of the act, and what it is intended to achieve and what it is not intended to achieve.

Clause 101 is more specific, because it deals with the form of association that is referred to as part of a specific defence in subsection (1) of clause 100. That relates back to applications made under subsections (1) and (3) of section 99. I will not go into that at the moment, because that is something that I am sure we will explore more fully later on. But given that they are in effect exemptions, they need to be exemptions that are precise. It would be odd if we were to allow an activity that was unlawful to be an exemption from that provision. That means, of course, that we are talking about lawful political protest rather than unlawful political protest, whatever that might be, and lawful industrial action rather than unlawful industrial action. If that were not the case, a person could be exempted from a control order, or from the restrictions on behaviour that are applied by this legislation, if he engaged in activity that was unlawful; and that would make a nonsense of the operation of the act. We can go into the detail of that when we get to it. But suffice to say at this stage that the purposes of clause 4—which are more general, and encompass the philosophy of the act—are different from the references that are made in later clauses to deal with particular provisions and qualifications.

Clause, as amended, put and passed.

Clauses 5 and 6 put and passed.

Clause 7: Application for declaration —

Hon GIZ WATSON: I move —

> Page 11, after line 20 — To insert —
>
> (7) The designated authority must undertake all reasonably practicable steps to notify the respondent of the application.

This clause deals with applications for a declaration that an organisation is a criminal organisation for the purposes of the act. I made the comment during the second reading debate that this is a very serious matter. To simply advertise the fact that an application has been made and not take all reasonably practical steps to notify the respondent seems to me problematic, because it means that the respondent will have to keep an eye on *The West Australian* or the *Government Gazette*, and although I am sure that is regular reading for many people, not everybody reads those two documents every day.

I am reminded of a debate that we had in this place about the exceptional powers that were provided for the Commonwealth Heads of Government Meeting and the discussion about the process by which a person could become a declared person or an excluded person—I cannot remember the exact terminology now. The same issue was raised in that debate. The issue was that if a person—in that case I think it was an excluded person; in this case it will be a declared organisation—is to be made the subject of an order, every reasonably practicable step should be taken to let the person know that that process is about to happen so that the person can respond. If a respondent does not want to know or cannot be found, that does not mean that the process does not go ahead. It just means that all reasonable efforts have been made to let the person know that this process is afoot. Is it intended that all reasonably practicable steps will be taken to contact the respondent?

Hon MICHAEL MISCHIN: I understand the point that Hon Giz Watson is making. However, it is the government's view that that is already catered for in the bill as currently drafted. In the first place, it is not up to the designated authority to take steps to notify the respondent of an application that has been brought by someone else, in the same way that a court does not normally advise defendants that a writ is out against them. That is up to the parties concerned. What the designated authority will do, when it deals with the application, is have regard to whether satisfactory notice has been given. That will be the case particularly if the respondent makes no appearance and makes no representations in respect of the application. That would alert the designated

authority to the fact that there may be a need for further advertisement of the application. Certain minimum requirements for notice to be given are already set out in clause 8 of the bill. The publication of the notice in the *Government Gazette* is as much a formality as anything else; that is, because it is an application made on behalf of state authorities, there is a requirement that it be gazetted as a matter of course. It must also be published in at least one newspaper circulated throughout the state. The minimum requirements set out in clause 8 provide for the notice to set out the date, the time and the place for the hearing of the application, and for those who may be affected directly or indirectly to be invited to make representations before the designated authority, and so forth. The designated authority will have the discretion to be able to say that he will not hear a particular application because he is not satisfied that sufficient notification has been given or because he is not satisfied that sufficient notice has been given to the public. In the end it is also one of the things that can be taken into account. I refer to clause 13(2)(f), which states that when considering whether or not to make a declaration, the designated authority may have regard to anything else the designated authority considers relevant. I would have thought that if notice is inadequate and if the authorities that bring the application are not prepared to advertise more widely, that would be a relevant consideration as to whether natural justice had been accorded the organisation and members of it to make representations to the designated authority. There are two reasons for opposing the amendment. Firstly, it is not in the right place and does not require the right person to carry out that function. Second, it is sufficiently accommodated in the bill as it stands and requires no further prescription.

Hon LINDA SAVAGE: I take the point made by the parliamentary secretary that it is not the role of the designated authority to undertake that service. I had marked clause 13(2)(f) with regard to anything else the designated authority considers relevant. I mentioned in my second reading contribution that I thought that attempts made to notify the respondent could be considered a bit feeble. In the interests of making the legislation as robust as possible, which is obviously the aim, and in light of the parliamentary secretary's comments that seemed to indicate that he thought that a designated authority might take into account the fact that no-one had turned up and that perhaps that raised a query about attempts to let the respondents know, it seems to me that publishing only in the *Government Gazette* and a newspaper—I do not think members of a bikie gang would read the *Government Gazette*; perhaps they would not even read the newspaper—is a bit weak. Has the government considered making it more robust so that that is not an issue? I say that because earlier the parliamentary secretary gave us figures relating to the number of members in bikie gangs. I was surprised at how few members the parliamentary secretary was talking about. I suppose I thought he would be talking about them in their hundreds, yet as I recall some of the figures were 50, 20 and 10. Certainly at this stage some are well known; in fact, some are proud to be known as the president. That comment echoes some comments I made yesterday. I ask the parliamentary secretary to advise whether consideration was given to whether something should be put on a clubhouse gate or attempted to be served on the president of a bikie gang.

Hon MICHAEL MISCHIN: I say again that these are minimum requirements. Whether or not they are sufficient requirements for the designated authority will depend on the view of the designated authority. I would have thought it sufficient for publication in at least one newspaper circulating throughout the state. I think there is only one newspaper that circulates around the state that we could count on. I suppose there are two if one includes *The Sunday Times*.

Committee interrupted, pursuant to standing orders.

[Continued on page 2301.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

DISABILITY SERVICES — CAPITAL WORKS PROJECTS

210. Hon SUE ELLERY to the Minister for Disability Services:

I refer to the 17 April announcement by the Treasurer of a "deferral of spending on capital works projects across a number of agencies". Which, if any, of the capital works listed in the budget are to be deferred and for how long?

Hon HELEN MORTON replied:

I thank the member for some notice of this question. Details of the deferral of spending on capital works projects announced by the Treasurer will be provided when the 2012–13 budget is released on 17 May.

DEPARTMENT FOR CHILD PROTECTION — KEY PERFORMANCE INDICATORS

211. Hon SUE ELLERY to the Minister for Child Protection:

I refer to the Auditor General's report 3 of April 2012 into key performance indicators that found that the Department for Child Protection did not have a key performance indicator for its working with children role, and further found that the department's problems with its core database meant that it could not accurately measure

data. It further found that it did not have a manual to properly document how its KPIs would be measured. What steps has the minister taken to ensure these serious accountability measures are addressed?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of this question. We are undertaking a review of the working with children checks. Also, a committee has looked into the working with children checks. When we have reported to Parliament, we will see what we will do with that. We are looking at it.

"PERFORMANCE ASSESSMENT OF DEPARTMENT OF COMMERCE SCIENCE AND INNOVATION PROGRAMS"

212. Hon KATE DOUST to the minister representing the Minister for Science and Innovation:

I refer to the report requested by the Technology and Industry Advisory Council, "Performance Assessment of Department of Commerce Science and Innovation Programs", which, according to the annual activity report 2010–11, was due to be released in July 2011.

(1) What is the status of this report?

(2) Has it been completed; and, if not, why not?

(3) If it has been completed, when will it be made public?

(4) If this report is available, will the minister table it; and, if not, why not?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) I am advised that a draft of the Technology and Industry Advisory Council "Performance Assessment of Department of Commerce Science and Innovation Programs" report was completed in mid-2011.

(2) TIAC considered the completed report in October 2011.

(3) I am advised that poor data availability prevented adequate performance assessment and comparison between science and innovation programs in the report, thus TIAC determined that the report cannot be released to the public.

(4) No; TIAC determines the publication of its reports.

SOUTHERN METROPOLITAN REGIONAL COUNCIL REGIONAL RESOURCE RECOVERY CENTRE

213. Hon SALLY TALBOT to the minister representing the Minister for Environment:

I refer to the Southern Metropolitan Regional Council waste composting facility.

(1) How many tonnes of waste did the SMRC facility receive in 2009–10 and 2010–11?

(2) How many tonnes of waste did the SMRC facility recycle in 2009–10 and 2010–11?

(3) How much waste does the minister estimate will be sent to landfill in 2011–12 and 2012–13 with the closure of the SMRC facility?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) The SMRC received 98 761 tonnes, comprising 84 277 tonnes of mixed general waste and 14 484 tonnes of green waste, in 2009–10; and 97 065 tonnes, comprising 80 691 tonnes of mixed general waste and 16 374, tonnes of green waste in 2010–11.

(2) The SMRC recycled 56 623 tonnes, comprising 42 139 tonnes of mixed general waste and 14 484 tonnes of green waste, in 2009–10; and 60 451 tonnes, comprising 44 077 tonnes of mixed general waste and 16 374 tonnes of green waste, in 2010–11.

(3) The 2011–12 figures will be available after the annual survey of all recycling facilities in Western Australia is completed by the Department of Environment and Conservation in September 2012.

The PRESIDENT: I call Hon Giz Watson.

Hon GIZ WATSON: Mr President, I apologise. I do not have a question because the question I wish to ask is for somebody who is paired. I am not giving it to Hon Ken Travers! I am just indicating that I do not have a question.

NATIONAL PARTNERSHIP AGREEMENT ON COAL SEAM GAS AND LARGE COAL MINING DEVELOPMENTS

214. Hon ALISON XAMON to the Minister for Mines and Petroleum:

I refer to the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Developments.

(1) Has Western Australia been invited to join this partnership?

(2) If yes to (1) —

(a) what was the government's response to this invitation; and

(b) will the minister please table that response?

(3) If no to (1), will the minister seek to join the partnership?

(4) If no to (3), why not, given that there are a number of companies explicitly exploring for coal seam gas in Western Australia?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question.

(1) Yes.

(2) (a) The Department of the Premier and Cabinet is coordinating a response incorporating feedback from the Department of Mines and Petroleum and the Office of the Environmental Protection Authority.

(b) No; the state government's submission to the commonwealth will be visible on the Parliament of Australia website.

(3) Not applicable.

(4) Not applicable.

STIRLING ALLIANCE — MEMBER FOR SCARBOROUGH — BRIEFINGS

215. Hon KEN TRAVERS to the minister representing the Minister for Planning:

(1) Has the member for Scarborough ever received any briefings, either written or in person, from the Stirling Alliance?

(2) Did any briefing include any reference to any access and parking proposals or strategies being considered by the Alliance?

(3) Has the member for Scarborough ever raised with the minister any concerns about the Stirling Alliance's proposals or strategies on access and parking?

(4) If yes to (3), what were the concerns, when were they raised, and how were they raised?

(5) Will the minister table any written briefings or correspondence to the member for Scarborough regarding the Stirling Alliance?

The PRESIDENT: I do not believe the first two parts of that question are applicable because they are asking details of another member of Parliament—not the minister or the portfolio.

Hon Ken Travers: With respect, Mr President, I am asking about whether a government agency has provided a briefing to people. I think that we have seen many questions asked along those lines about the actions of the agency and not of the member of Parliament.

The PRESIDENT: I may have misheard the question, but I did not interpret the body referred to as a government agency; I thought that it was a community group. However, the minister may have an answer that clears it up.

Hon HELEN MORTON replied:

Thank you, Mr President. I think your ruling was correct in that the question asks whether "the member for Scarborough ever received any briefings". However, the answer —

Hon Ken Travers: From the Stirling Alliance, which is a government agency.

Hon HELEN MORTON: Yes—however, the answer has been provided along the lines of —

(1)–(2) Yes.

(3) The member for Scarborough has discussed the project in general terms with the minister.

(4) The member for Scarborough wrote to the then Minister for Transport in July 2010 regarding traffic congestion on Scarborough Beach Road and in other parts of Innaloo. The letter was forwarded to the Minister for Planning to respond to, given the Department of Planning's role in the Stirling Alliance. Following receipt of the letter, the Minister for Planning attended a tour of the subject area with the member for Scarborough in October 2010, at which the Stirling Alliance project was discussed in general terms.

(5) Yes; and I table the attached letter.

[See paper 4483.]

MENTAL HEALTH FACILITIES — REVIEWS

216. Hon LJILJANNA RAVLICH to the Minister for Mental Health:

(1) Can the minister advise the house of the reporting dates for the Chief Psychiatrist's review of clinical practice, admissions and discharges of mental health presentations at Fremantle Hospital; and the review of admission or referral to, and the discharge and transfer practices of public mental health facilities or services in Western Australia?

(2) Will these reviews be made public, and when; and, if not, why not?

(3) Is there a four-person review, initiated by the minister as part of the review by the Chief Psychiatrist in the Alma Street clinic or as a standalone review; and, if so —

(a) what are its terms of reference;

(b) when did it commence;

(c) who are the four persons who are the subject of the review;

(d) when will it be finalised;

(e) will the findings be made public; and

(f) if not, why not?

The PRESIDENT: Yesterday I made a point of referring questioners and ministers to the conciseness of their questions and answers. I believe the member's question stretches the boundaries a little.

Hon HELEN MORTON replied:

(1)–(2) I am advised that the two reviews by the Chief Psychiatrist have been completed and will be considered by the Director General of Health. Professor Bryant Stokes' review is expected to be completed in June and will be considered by the Director General of Health and the Mental Health Commissioner. Once I have had an opportunity to consider all three reviews, I intend to make the findings public, while respecting confidentiality rights and provisions relating to individuals either living or deceased.

(3) Yes. The Chief Psychiatrist's examination of the clinical care of four cases at Fremantle Hospital is a standalone review.

(a) I table the attached document;

(b) December 2011;

(c) The names of the four persons whose care was reviewed are identified in the report; and

(d)–(f) Refer to answers (1) and (2).

[See paper 4484.]

GENETICALLY MODIFIED FOOD LABELLING — REPORT

217. Hon LYNN MacLAREN to the minister representing the Minister for Agriculture and Food:

With regard to the report of the interdepartmental committee on GM food labelling —

(1) Who commissioned the report?

(2) Who funded the report?

(3) Have the submissions and answers referred to in question 4 of my question on notice 2528, answered on l0 August 2010, been tabled; and, if not, why not?

(4) Why will the findings of the report, which are clearly in the public interest, not be tabled in Parliament, in accordance with the minister's earlier commitment to table it?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of this question.

(1) The Minister for Agriculture and Food.

(2) The Department of Agriculture and Food.

(3) I table the report, which contains a summary of the submissions received. The full submissions are not contained in the final report as no clearance was sought for public release from respondents.

(4) Not applicable.

[See paper 4485.]

GRESHAM ADVISORY PARTNERS LIMITED

218. Hon MATT BENSON-LIDHOLM to the minister representing the Treasurer:

Over the past 12 months —

(1) How many times has the Treasurer met with representatives of Gresham Advisory Partners Limited, and when and where did the meetings take place?

(2) How many times has the Treasurer's staff met with representatives of Gresham Advisory Partners Limited, and when and where did the meetings take place?

(3) Has the Department of Treasury entered into any contracts or arrangements with Gresham Advisory Partners Limited; and, if so, what are the terms of the contract or arrangements and the value of any contract or arrangement?

Hon NORMAN MOORE replied:

I reply on behalf of the Minister for Finance. Due to time constraints, the need to provide accurate information and the long time frame the question covers, it is requested that the member put this question on notice.

MINISTER FOR LOCAL GOVERNMENT — DELEGATIONS

219. Hon ED DERMER to the minister representing the Minister for Local Government:

(1) Has the Minister for Local Government delegated any of his decision-making powers to the director general or any other officers of his department; and, if so, how many?

(2) Will the minister table a list of each of these delegations and the section of the act to which they relate?

(3) Why has the minister delegated each of these powers?

(4) Is the minister consulted in reference to the exercise of these delegated decision-making powers?

(5) Has the minister set in place any policy framework for the exercise of these delegated powers; and, if yes, will he table a copy of the framework?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of the question.

(1) Yes. Thirteen officers have been delegated.

(2) The relevant sections under the Local Government Act 1995 are: section 2.25(2), leave of absence—more than six consecutive ordinary meetings; section 5.7(1), reduction of number of offices for a quorum; section 5.7(2), reduction of number of offices where absolute majority otherwise required; section 5.69, disclosing member's participation at meetings—member has disclosed interest in matter; section 5.69A, exemption of committee members from disclosure requirements; section 6.2(1), extension of time to prepare and adopt budget; section 6.4(3), extension of time to submit accounts and annual financial report to auditor; section 6.28(1), determine method of land valuation and publication of determination; section 6.33(3), imposition of differential general rates—more than twice the lowest rate imposed; section 6.35(5), imposition of minimum payment—greater than general rate, on vacant land; section 6.74, land revestment in Crown if rates in arrears of three years—rateable vacant land; and section 7.5, approval of an approved auditor. The relevant section under the Cemeteries Act 1986 is section l2, burial outside declared cemetery.

(3) It is standard practice for ministers to delegate powers of a technical or administrative nature.

(4) The minister is provided with a quarterly report of the exercise of those delegations.

(5) There are frameworks in place. However, given that the framework is dependent on the nature of the power, this may take some time to collate, and I take this question on notice.

"WOMEN'S REPORT CARD" 2009

220. Hon LINDA SAVAGE to the Minister for Women's Interests:

I refer to the 2009 "Women's Report Card" and the ministerial foreword which states —

> The report card is an important tool to measure women's progress in areas such as health, work, safety, leadership and education. It is used in government, non-government and private sectors to inform policy development and service delivery.

(1) How specifically has the report card been used by the minister to inform policy development and/or service delivery?

(2) Does the minister plan to upgrade the report card in 2012?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of this question.

(1) Listed below are some of the indicators cited in the "Women's Report Card" 2009 update and how they have guided the development of various initiatives in relation to women's interests.

Senior positions in public authorities and business leadership: Indicators have informed the contracting of research through Curtin University, which produced the toolkit "Women in Leadership: Strategies for Change". This has been promoted in partnership with the Institute of Public Administration Australia and the Public Sector Commission to inform both public and private sector employers about successful strategies to increase representation of women in leadership positions and promote workplace change. The office of Women's Interests has funded scholarships in 2009 and 2011 for women to complete the Australian Institute of Company Directors course to increase their board readiness. In partnership with the Small Business Development Corporation, Women's Interests ran a women and entrepreneurship seminar on 2 May 2012 to build small business skills for self-employed women.

Participation in post-compulsory education: Findings have instigated a research project into an efficacy of mentoring program for young women in non-traditional career paths, especially in science and technology fields, to inform future initiatives.

Violence against women: Women's Interests provides advice and access to support for women experiencing violence and safety concerns through the Women's Information Service and the Women's Services Directory, released in 2010.

Perceptions of safety in the community: This indicator has informed the development of the seniors safety and security rebate.

Older women's family and community involvement: The department provides service funding of over $700 000 per annum to support volunteering in the community.

Older women and income: Indicators relating to the lower median income of older women have informed the development of the seniors cost-of-living rebate.

Health and wellbeing: The department provides funding to the Seniors Recreation Council of WA to deliver healthy ageing programs. The Department of Health's Women and Newborn Health Service has made extensive use of the health indicators in the "Women's Report Card" in the development of the "Western Australian Women's Health Strategy 2012–2015". The Peak of Women's Health WA Inc has used the health and wellbeing, safety and justice indicators and financial wellbeing indicators in the development of "Women's Health Matters: Western Australian Women's Health Policy and Gender Impact Assessment: A 10 Point Plan 2010–2014". The department has produced resources to inform women of the dangers to themselves and their babies of the use of alcohol during pregnancy.

On the issue of lifestyle and associated risk factors, Women's Interests is currently developing a discussion paper on women's involvement in sport to inform further initiative development.

(2) Yes; the 2012 "Women's Report Card" update is in advanced stages and will be released in July 2012.

ROYALTIES FOR REGIONS REVIEW — PUBLICATION

221. Hon HELEN BULLOCK to the parliamentary secretary representing the Minister for Regional Development:

My question is about the publication of the royalties for regions review, which is distributed from the minister's office.

(1) How is this review distributed, and to whom?

(2) Who is responsible for the development and publication of this review?

(3) What is the cost of production and distribution of this edition of the review, and which government agency meets this cost?

(4) If more editions are planned, what is the total budget for this publication?

(5) On page 4, where expenditure is listed, does the spending on the Pilbara include the suspended Karratha underground power project?

Hon MICHAEL MISCHIN replied:

I give this answer on behalf of the Parliamentary Secretary to the Minister for Regional Development. On her behalf, I thank the member for some notice of this question.

(1) The review is distributed via email and print to stakeholders and community groups.

(2) The office of the Minister for Regional Development; Lands.

(3) The cost is $780, excluding goods and services tax, from the ministerial cost centre.

(4) To be determined.

(5) The figure includes all expenditure incurred to 31 December 2011.

NON-GOVERNMENT SERVICE PROVIDERS — EFFICIENCY DIVIDEND

222. Hon SUE ELLERY to the minister representing the Treasurer:

I think the answer has been provided.

I refer to the 17 April announcement of a two per cent efficiency dividend on agencies in 2012–13, and a further one per cent in each of the out years to 2015–16.

(1) What impact, if any, will this have on the second component of payment of moneys to the non-government sector announced in last year's budget?

(2) Will any of the moneys allocated to the Departments of Finance or Treasury as part of that package to provide education, training and support and monitoring of the rollout of the additional funding and contracting reforms be impacted by the efficiency dividend?

Hon NORMAN MOORE replied:

On behalf of the Minister for Finance, I provide the following response.

(1)–(2) The scope of and specific exclusions from the announced efficiency dividend will be detailed as part of the 2012–13 budget.

And the member could expect nothing less.

The PRESIDENT: I believe we have a few questions up there now, so I will give the call to Hon Giz Watson—eventually!

CHILDREN — HEARING LOSS

223. Hon GIZ WATSON to the Minister for Child Protection:

This morning we had a breakfast seminar at Parliament House addressing the issue of loss of hearing in Aboriginal children and its consequences. Can the minister indicate what, if anything, her department is doing with regard to funding and resourcing to deal with the issue of hearing loss in children in the state?

Hon ROBYN McSWEENEY replied:

The issue of loss of hearing comes under the health department, but I am very happy to liaise with the Minister for Health and get the member an answer to that question.

INTERIM COUNCIL FOR SCIENCE AND INNOVATION — REPORT

224. Hon KATE DOUST to the minister representing the Minister for Science and Innovation:

I refer to the interim Council for Science and Innovation report titled "From Strength to Strength: An Innovation Plan for Driving Western Australia's Future Prosperity", and its 12 recommendations.

(1) What is the government's response to the 12 recommendations; and will it table this response?

(2) If there is no response from the government, does the minister concede that the government does not take the recommendations seriously?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) The interim Council for Science and Innovation's report made a number of recommendations, many of which have been implemented by the state government.

(2) Not applicable.

WESTERN GROUND PARROT CAPTIVE MANAGEMENT PROJECT — INTEGRATED FAUNA RECOVERY PROGRAM

225. Hon SALLY TALBOT to the minister representing the Minister for Environment:

I refer to the western ground parrot captive management project and the integrated fauna recovery program's trial feral cat baiting project.

(1) Is it true that the contract of the conservation officer employed to oversee the western ground parrot captive management project is due to expire and will not be renewed; if this is true, why, and how will this vital work be continued?

(2) Is it true that the funding for the conservation team running the integrated fauna recovery program which has been trialling feral cat baiting on the south coast is about to end; if this is true, why, and how will this vital work be continued?

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

(1)–(2) These are not separate projects. Rather, the integrated fauna recovery program is an extension of the western ground parrot project in recognition of the benefits to multiple threatened species of the feral predator control and habitat management components of the ground parrot project. The minister is very conscious of the critically endangered status of the western ground parrot and the importance of ensuring its conservation. The western ground parrot recovery project involves significant inputs and associated operational support from a number of Department of Environment and Conservation regional and scientific staff, as well as the employment on a contract basis of four staff dedicated to the project using a combination of DEC, grant and sponsorship funds. The project is a high priority and DEC is currently taking steps to ensure its continuity.

WESTPORK, NEIL FERGUSON AND ROBERT MASSAM

226. Hon LYNN MacLAREN to the minister representing the Minister for Agriculture and Food:

Notice of this question was given on 28 March.

(1) Has the minister or his department received information regarding the scheduling of upcoming court proceedings relating to animal cruelty involving Westpork, Neil Ferguson and Robert Massam?

(2) Will the minister please list the charges for each case?

(3) Has the minister been advised what proceedings will be held on each of the court dates?

(4) Why has the department refused to provide information regarding the timing of the trial to animal welfare organisations?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of this question.

(1) Yes.

(2) Prosecution has been commenced against Westpork, Neil Ferguson and Robert Massam for the following alleged offences pursuant to sections 19(1) and 19(3)(h) of the Animal Welfare Act 2002: two charges between 20 January 2009 and 23 January 2009; two charges between 22 January 2009 and 25 January 2009; six charges between 26 January 2009 and 2 February 2009; and four charges between 15 April 2009 and 22 April 2009.

(3) Yes; all matters will be in court on 11 April 2012 for mention only.

(4) The department has not refused to provide information on trial dates. Trial dates are yet to be set.

PERTH PARKING MANAGEMENT ACCOUNT — CBD TRANSPORT PLAN

227. Hon KEN TRAVERS to the minister representing the Minister for Transport:

I refer to the $47.6 million the minister recently announced for a Perth CBD transport plan.

(1) How much of this money will be spent in 2012–13?

(2) How much is recurrent expenditure and how much is capital expenditure?

(3) How much of this money will come from the Perth parking management account?

(4) Will any of the projects announced receive funding from the consolidated account; and, if yes, which projects will receive funding and how much will they receive?

(5) Can the minister explain how increasing traffic capacity provides for a more balanced transportation system?

Hon NORMAN MOORE replied:

On behalf of the Minister for Finance, I provide the member with the following answer and I thank him for some notice of this question.

(1) For 2012–13, $12.3 million.

(2) Recurrent expenditure, $5.3 million; and capital expenditure, $7 million.

(3) The sum of $12.3 million will come from the Perth parking management account.

(4) Yes. Funding from the consolidated fund will be provided for elements of projects falling outside the Perth parking management area, including the green CAT service and the incident response service.

(5) The Liberal–National government will provide a holistic transportation system by delivering improved public transport, cycling and road infrastructure. Increased traffic capacity delivers on part of that solution.

APPRENTICES AND TRAINEES — NUMBERS

228. Hon LJILJANNA RAVLICH to the Minister for Training and Workforce Development:

On 6 February 2010 —

Hon Peter Collier: Yes!

Hon LJILJANNA RAVLICH: Listen, because it is without notice, and write it down!

Several members interjected.

The PRESIDENT: Order! Let us listen so we can hear it.

Hon LJILJANNA RAVLICH: On 6 February 2010, the minister set a target of 47 100 apprentices and trainees in training by 2012. That is from the media statement of Saturday, 6 February 2010. The number of people in training in WA, however, according to the latest publication from the National Centre for Vocational Education Research is 38 800, meaning that the minister is 8 300 short of his own target. Can the minister explain why he is 8 300 short of his own self-set target?

Hon PETER COLLIER replied:

I thank the honourable member for the question. I have been salivating at the prospect of having a question without notice on training for so long and, unfortunately, it is right at the end of question time, so I do not want to take up too much time! What I will say is that I have an open invitation to Hon Ljiljanna Ravlich to ask me a question every single day for the rest of the year because I would love to talk about training ad infinitum, constantly, without any question whatsoever because training is in a good situation; we have more people in training in Western Australia than ever before in the history of the state.

Let us have a look at apprenticeships. I do not know where the honourable member got her figures from. We are sitting at about 40 000 at the moment —

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! We have had the question, now we have the answer. That is the way it works here, one at a time.

Hon PETER COLLIER: She is being very unruly, Mr President, I would really appreciate it if you would discipline her severely!

The PRESIDENT: Let me judge that; you just answer the question.

Hon Ljiljanna Ravlich: How come you're 8 300 short?

Hon PETER COLLIER: See! I am trying to get a word in.

I will very quickly explain a couple of things with regard to training. I really want the honourable member to ask me this question again in the very first question of question time so that I have a bit of time. At this stage, we have more people in training than ever before in the history of this state. One of the biggest issues we have at the moment is the retention of apprentices. What happened, certainly from, say, 2008 when we were at the peak of the boom, is we had a significant uptake in apprenticeships. A lot of those apprenticeships have now dropped off. As a result of the global financial crisis, the uptake of apprenticeships, logically, nationally declined and so we saw a decline. We have worked fastidiously over the past three years to ensure that that uptake increases and we will continue to do so. We are working hand-in-hand with industry to ensure that that occurs. Having said all that, we had a significant increase in traineeships—certificate IV and above—over the past three years. There

has been a massive increase. In a very generic sense in terms of training, we have more people—I repeat, more people—in training now than ever before in the history of Western Australia.

We will not meet the target of 47 000; I take that on the chin. We are not going to meet it, I promise the member.

Hon Ljiljanna Ravlich interjected.

Hon PETER COLLIER: It is not a failure at all. What I am saying is that we are always going to have a bit of an ambit claim; we want to put that target up there so we can—we are facing the prospect of a skills shortage in Western Australia by 2015 of around 76 000—make sure that we do all that we possibly can for training. As I said, we have done an enormous amount in the past three years in terms of our state training providers, our industry training councils and our workforce development centres. Our Aboriginal workforce development centres throughout Western Australia are working magnificently; we have had a 14 per cent increase in Aboriginal training alone. They have been working magnificently.

Suffice to say, I am going to have to cut it short. I really would like to go on, but training is in very, very healthy hands and I am really looking forward to Tuesday week when I get asked another question and I can continue this great adventure.

QUESTIONS ON NOTICE — HON KEN TRAVERS

Question on Notice 5276, 5284, 5296 and 5297 — Answer Advice

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [5.05 pm]: On behalf of the Minister for Finance, pursuant to standing order 107(2), I wish to inform the house that answers to questions on notice 5276, 5284, 5296 and 5297 asked by Hon Ken Travers on 8 March 2012 to the Minister for Finance representing the Minister for Transport will be provided on 15 May 2012.

QUESTION ON NOTICE 5302

Paper Tabled

A paper relating to an answer to question on notice 5302 was tabled by **Hon Peter Collier (Minister for Energy)**.

HARDSHIP UTILITY GRANT SCHEME

Question without Notice 203 — Supplementary Information

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [5.05 pm]: Hon Matt Benson-Lidholm asked me a question without notice yesterday, 203, to which figures were provided only for February 2012 and not March 2012. I would therefore like to provide the complete answer, which includes figures for March 2012, and seek leave to have it incorporated into *Hansard*.

Leave granted. [See paper 4487.]

The following material was incorporated —

I thank the Hon. Member for some notice of this question.

February 2012:

Question Number	Regional Development Region	Number of Approved Grants
1.	Great Southern	61
2.	South West	110
3.	Goldfields-Esperance	36
4.	Gascoyne	11
5.	Wheatbelt	53
6 and 7.	Kimberley (East and West)	39
8.	Pilbara	30
9.	Peel	108
10.	Midwest	49

March 2012:

Question Number	Regional Development Region	Number of Approved Grants
1.	Great Southern	72
2.	South West	146

3.	Goldfields-Esperance	39
4.	Gascoyne	17
5.	Wheatbelt	51
6 and 7.	Kimberley (East and West)	45
8.	Pilbara	51
9.	Peel	140
10.	Midwest	71

CRIMINAL ORGANISATIONS CONTROL BILL 2011

Committee

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Michael Mischin (Parliamentary Secretary) in charge of the bill.

Clause 7: Application for declaration —

Committee was interrupted after the amendment moved by Hon Giz Watson had been partly considered.

Hon MICHAEL MISCHIN: I think I have already made my comments. Hon Giz Watson was about to ask a question.

Hon GIZ WATSON: I was just collecting my thoughts on where we got to before we were interrupted by questions without notice. What I understood from the parliamentary secretary was that he considered that the method of notification was adequate; therefore, it would be unnecessary to insert something that specifically says that reasonable practical steps must be taken to notify the respondent. I think Hon Linda Savage made the point somewhere in that conversation that it might be that the respondent did not turn up. It might then be viewed dimly that attempts to contact them were not adequate enough. It seems to me that that is a sort of expensive way to go about it. Why not make the effort to contact the respondent directly in the first place? If it is simply, as it is going to stand in the bill, a matter of putting a notice of the application in the newspaper and in the *Government Gazette*, I think there is a pretty high chance that the respondents are not going to know that it is there. Is it intended that attempts will be made? It is one thing to actually put it in the legislation, but is the intention, procedurally, that attempts will be made to contact the respondent?

Hon MICHAEL MISCHIN: I would expect that they would take all reasonable steps to notify a respondent if there was perceived to be a means of doing so. In respect of some criminal organisations where they are readily identifiable and have a place of operations and the like, it may be that that can be done. A letter can be posted to them or a notice can be stuck on a wall, but this is a minimum requirement to enable notice of an application to be disseminated into the community and to reach the attention of those that the application is focusing on. As I pointed out, the designated authority would, in any event, bear in mind whether there has been a sufficient notification so that someone could exercise their opportunity to make submissions in responding to the application. It is not the organisation itself that makes the response, but the members of the organisation and other persons who may be directly affected, whether or not adversely, by the outcome of the application to make submissions and so on. I would expect that a designated authority, properly exercising his or her powers under the bill, would take that into consideration and satisfy themselves that a satisfactory opportunity to be heard has been afforded to those who are able to make submissions. In any event, as I have pointed out, the amendment focuses on assigning the responsibility for giving notice to the designated authority, who is not the person who ought to have that responsibility; it ordinarily should be imposed upon the applicant rather than the adjudicator.

Amendment put and negatived.

Clause put and passed.

Clause 8: Publication of notice of application —

Hon GIZ WATSON: I move —

Page 11, after line 28 — To insert —

(b) setting out the grounds on which the application is sought; and

(c) setting out the information supporting those grounds; and

Obviously, the existing subclause (c) will flow on from there. Currently, only the consequences of the grant of an application have to be published in the *Government Gazette*, but not the reasons for granting the application. This amendment is in similar terms to clause 36(c) and (d) for a control order application. I have simply duplicated the requirements that are currently provided in clause 36. We are arguing, in terms of fair procedure,

for the respondent to know the grounds for the application, and the information supporting those grounds is a procedural fairness that we think ought to be included in this clause.

Hon MICHAEL MISCHIN: The government will not support the amendment. There are essentially two bases for that position. The first is a matter of principle. This clause is about notification of the fact of an application to achieve a certain end. It would not be sensible to publish all the details of the application and the evidence in support of it when people are simply being notified that an application is underway, the time and date of it and, essentially, the rights and obligations of people if they want to contest the application. I will use an analogy and, admittedly, it is not a perfect analogy. If a police officer were to approach a magistrate for the issue of a search warrant, they would have to provide what they are after, what they intend to search for and the grounds for that search warrant, and the grounds and the evidence in support of those grounds would not ordinarily be published. The detail of an application that is proposed to be made would not necessarily be required to be published, in the same way as happens with a licensing application or a planning application; that detail is obtained down the track once people are advised of the fact that it is happening.

Secondly, it is a matter of practicality. Some of the basis for the application may be confidential information which ought not be disseminated generally and which may reveal sources and the like. The information supporting the application can be very voluminous. It may consist of a considerable amount of affidavit evidence that has at that stage been untested. So what the member is essentially asking for is that a whole newspaper be prepared setting out not only the essential information that an application has been made and when a person will have an opportunity to be heard on it, but also all the information to support it. It simply would not be practicable to do that. It may be dangerous to do that if in fact information that ought not be in the public arena were revealed. Those who have an interest will be informed of their rights to make submissions on the application. They will have the case revealed to them so that they can make sensible responses to it. That will be done under the control of the designated authority who will have to make the decision down the track. This amendment is neither necessary nor appropriate when giving notice of the fact of an application.

Amendment put and negatived.

Hon GIZ WATSON: I have one further point on clause 8, "Publication of notice of application". The application must be published in the *Government Gazette* and at least one newspaper circulating throughout the state and must specify that an application has been made for a declaration under part 2 of the bill in respect of the organisation. What will be done with an organisation that does not have a name?

Hon MICHAEL MISCHIN: That, fortunately, is not a matter that I will have to decide because I am not the enforcement agency that needs to bring the application, but there are ways that that could be done. If the organisation has no name, there may be difficulty establishing what the organisation is or whether it is in fact an organisation as opposed to a loose collection of people who may have a common aim but do not associate for the criminal purposes that are specified in the bill. There may be ways of identifying an organisation with reference to perhaps clothing, manners of behaviour and that sort of thing and ascribing the application in those terms. I would find it unlikely, speaking from my experience, that we could readily identify or convince someone that something is an organisation without there being some name to it or appellation by which it is known to others, and by which people identify themselves as either being part of it or otherwise. Even local action groups that get together in the community find themselves a name for particular purposes, whether they are incorporated or not. I would find it difficult to imagine that there is an organisation without it having some kind of a name by which they are known to themselves and others.

Progress reported and leave granted to sit again, pursuant to standing orders.

SOUTHERN RIVER ELECTORATE

Statement

HON NICK GOIRAN (South Metropolitan) [5.22 pm]: I am compelled to rise to my feet this late afternoon to make a short contribution during members' statements. It takes a bit to get me amused at the best of times, but I have to say that the Australian Labor Party has, in the past week, really outdone itself. I am sure that the Leader of the Opposition will be thrilled to know that I am referring to one of her good friends, the endorsed candidate for Southern River. What amused me so greatly was when I happened across the edition of the *Gosnells Examiner* dated 26 April 2012. Here was the opportunity for the friend of the Leader of the Opposition to make a strong mark in the campaign to win this important seat. I am sure that the Leader of the Opposition will be, like me, amused or bemused by the performance of the candidate. On page 2 of the *Gosnells Examiner* of 26 April 2012 —

Hon Sue Ellery: What do you think is the relationship between Susy Thomas and me?

Hon NICK GOIRAN: As much as I would love to take the interjections of Hon Sue Ellery, as I often do, regrettably I am time-bound this afternoon, but I must draw this matter to the attention of the Legislative Council.

This person, who had the opportunity to hit a home run on the first occasion of getting into the media, proceeded to tell anyone who could be bothered to listen that she wanted to go and share her concerns with people, and in particular that she was very concerned that the current member for Southern River, Peter Abetz, has had a number of years to deliver. Let me make sure I get this wording right, because this was the opportunity to hit a home run! The article states —

> … Member for Southern River Peter Abetz has had a number of years to deliver on his promises to the electorate but has failed to do so.

Everyone is now paying attention. Apparently the current member has not had an opportunity to fulfil his commitments. It goes on to say —

> "Peter Abetz has had four years to deliver on issues like a new sports ground for the community and also important road upgrades, but what is happening …?

Well, what a good question! I am sure that Hon Ken Travers would be especially interested in this because it has to do with his shadow portfolio of roads and transport —

Hon Phil Edman: And he loves the south metro.

Hon NICK GOIRAN: And he loves the South Metropolitan Region, I know.

Apparently the member has not done two things. One is to do with sportsgrounds and the other is to do with roads. I will deal with the first one first. That is pretty easy because if we go to the *Gosnells Examiner*—remember that this is on page 2—and we turn to the right and look at page 3, what do we find? We find an absolutely fantastic article by the journalists of this paper with a very big picture of who else but my good and hardworking friend the member for Southern River, Peter Abetz. Standing next to him is the Premier of Western Australia and standing next to him is City of Canning Mayor Joe Delle Donne. What are they doing? The title of the article is "Moving forward for new sports ground, feasibility study". This outstanding candidate —

Hon Ken Travers: Because Susy has put pressure on you, you're now doing a feasibility study. Give us a break! You lot are hopeless.

Hon NICK GOIRAN: I must take this interjection.

The PRESIDENT: No, you must not.

Hon NICK GOIRAN: Hon Ken Travers has set himself up fantastically. I would love to tell the member that the caption at the bottom of this picture states that this picture was taken last July! Therefore, it had absolutely nothing to do with this hopeless candidate that the ALP has put forward. All it does is prove that the hardworking member for Southern River has been at this for a long time. Any bozo who wants to come along and suggest that the member has not been doing a good job and has had all this time to do things obviously has no idea. I find that very, very disappointing. I live and work in the area so, unlike the member opposite who is chained to Joondalup, I happen to know a bit about Southern River. Let me tell members that we have an absolutely fantastic and hardworking member. Let me tell Hon Ken Travers that no member of Parliament works harder than this member. Some members may work as hard as him, but no-one works harder than he does.

Hon Ken Travers: How come he hasn't got the railway station?

Hon NICK GOIRAN: I have only a few minutes left, but I want to take the fantastic interjection by Hon Ken Travers about the railway station. He has read my mind once again and really outdone himself this week. The author of this article, which is good and solid journalism from this organisation, takes the opportunity to ask Mr Abetz his point of view given that someone is coming along and just crassly demeaning him. Peter Abetz said —

> "The very first thing I did when I was elected was to get the Minister for Transport to agree not to sell the land set aside for the extension of the Canning Vale train line.

Why would he have to do that? Because, of course, Hon Ken Travers' good friend, who used to be the Minister for Planning and Infrastructure, stopped the process of having a Canning Vale train station. The Labor Party decided that the citizens of Canning Vale did not deserve a train station.

Hon Ken Travers: Prove that statement you've just made!

Hon NICK GOIRAN: Where is the train station? It is not there. Labor was in government for eight years.

Hon Ken Travers: You just said that we were going to sell the land—prove it! Don't come in here with those lies.

The PRESIDENT: Order!

Hon NICK GOIRAN: The honourable member amuses me once again. Unfortunately, the citizens of Canning Vale do not have a train station despite the fact that they want one. The person who wants to give them one is the

current member, Peter Abetz, MLA. This candidate makes me laugh when she says that he has not been fighting for this when in actual fact for the past four years he has been doing everything in his power to do it. Better than that, this candidate criticises Peter Abetz by saying that he has not been doing anything about important road upgrades. Interestingly, where I live is pretty much on the intersection of Garden Street and Warton Road. Hon Ken Travers probably does not know where those two roads are even though it is within his portfolio, but I live there. Let me tell members something about those two roads. They have been upgraded and widened. Why is that? It is because Peter Abetz, the member for Southern River, has been working harder than anybody else in his electorate to make sure that these things get done.

The reason I am so passionate about this issue is because I live there, and of course I want to make sure that my local representative in the other place is doing a good job. I am afraid that the alternative that has been put up will just not be up to the mark. On the very first occasion she gets to say something intelligent in the media, she gets it wrong on both counts.

Hon Phil Edman: A bit like the Prime Minister, isn't it!

Hon NICK GOIRAN: Unfortunately, it does seem to run in the family with regard to the Australian Labor Party, and that is very disappointing.

I conclude by saying that I do not say this to disrespect the individual. I note that this particular individual is a teacher by profession, and in my view people who decide to become a teacher deserve the highest respect, because they have a very important role to perform in our society. I am sure, Mr President, that you would agree with me in that regard. So this person no doubt means well, but unfortunately she is not going to be up to the task of representing the constituents of Southern River. Therefore, I am very disappointed that the Leader of the Opposition in this place saw fit to think that this candidate would be a suitable candidate to represent the region that the Leader of the Opposition shares with me.

HABITAT FOR HUMANITY
VINNIES CEO SLEEPOUT 2012

Statement

HON LIZ BEHJAT (North Metropolitan) [5.31 pm]: Tonight I want to tell members about a launch that I went to earlier in the day. However, before I get onto that important subject I want to enlighten members about, I want to talk briefly about another matter. I was out of the house during the earlier part of the day, but when I came back into the house, Hon Sally Talbot was speaking during opposition business and was making some references to an organisation call Habitat for Humanity. She seemed to be drawing some parallels to where else Habitat for Humanity—which is an organisation that now also exists in Australia—has built houses, and she said that was in Third World countries like Africa and left it at that. I am sure it was probably just because Hon Sally Talbot ran out of time that she was not able to put on the record exactly what Habitat for Humanity does. But I want to use a couple of minutes of my time to set the record straight for Hon Sally Talbot.

Habitat for Humanity is a Christian housing ministry that was set up some years ago. Its operations are headquartered in Georgia in the United States of America. It has built 500 000 houses around the world, serving 2.5 million people. Some of the countries in which Habitat for Housing has built houses, and which Hon Sally Talbot forgot to mention, are the United States of America, Canada, Malaysia, Singapore, France, Portugal, The Netherlands, Japan, South Korea, Great Britain, Northern Ireland, Germany, Switzerland, Argentina, Chile and Brazil. I can understand that Hon Sally Talbot probably did not have time to expand on that, but Habitat for Humanity is a worldwide organisation; it is not just in Australia or in Third World countries like Africa. In fact, Habitat for Humanity has been in Australia since 1998 building houses, and, yes, it is in Western Australia, and, yes, it has built one house in Western Australia. That house is in Seville Grove. It has yet to start its next build, I understand, but it is on the record here as having built one house. The other houses that it has built in Australia are located in other states. In Queensland, Habitat for Humanity has been helping flood victims to rebuild their houses, particularly those people who may not have had insurance during those disastrous floods, and in Victoria it has been helping people to rebuild their houses after the bushfires. So I just wanted to set the record straight for Habitat for Humanity—what a great organisation it is.

What I actually want to speak about, though, is the launch that I attended this morning for the 2012 Vinnies CEO Sleepout, together with the chief executive officer of Burswood Entertainment Complex, Barry Felstead, and Mark Fitzpatrick, the chief executive of the St Vincent de Paul Society of Western Australia. The Vinnies CEO Sleepout will be taking place at the WACA on 21 June this year. As members may know, 21 June is the longest night of the year, so it is probably quite appropriate that that is the night that we will be going to the WACA for the sleep-out.

I participated in the sleep-out for the first time last year, and I am happy to say that I will be participating again this year. The Vinnies CEO Sleepout takes place in all states and territories across Australia, and it is an awareness and fundraising event for St Vincent de Paul's homelessness services. It is the third year that the event

has taken place in Western Australia and the seventh year that it has taken place nationally. The event provides much-needed funding for the society's services and ensures that it can continue the work that it does for homeless people. In WA we hope to have 120 business and community leaders take part in the Vinnies CEO Sleepout 2012. At the moment we have 50 registered to take part, but after today's launch we are sure that quite a few more people will come on board.

One of the purposes of my getting to my feet tonight is to issue the challenge to my fellow members in both this place and the other place to participate. Four members from the other place participated last year. I am sure that they will do it again this year. But I think that we could do a bit more than that and have a few more of us participating. In 2010, 99 chief executive officer sleep-out participants raised $474 000. Last year we had 104 participants and raised over $615 000. So the idea is that this year we will have more CEOs and we want to raise more money.

Previous CEO sleep-out participants include His Excellency the Governor of Western Australia Malcolm McCusker and Mrs Tonya McCusker. They were there last year. Andrew Forrest from the Fortescue Metals Group has participated. Barry Felstead has participated. Barry is the most amazing fundraiser. I think last year Barry's target was about $47 000 on his own, which is a great tribute to him. He has great energy and enthusiasm, and he was certainly showing that today while we were at the launch. Other participants included Ray Wardrop from Channel 7; Elton Swarts from *Western Australian Business News*; James Pearson from the Chamber of Commerce and Industry of Western Australia; Anne Arnold from the Real Estate Institute of Western Australia; Suzanne Ardagh from the Australian Institute of Company Directors; Jeff Weber from Mermaid Marine Australia; John Poulsen from Squires Sanders; Andy Crane from the CBH Group; David Reed from Reed Resources; and many, many more. So if members agree to come along and join us on that night, they will be in very esteemed company.

Last year, it certainly opened my eyes to the plight of homeless people. I am sure that none of us in this place will ever experience real homelessness. Let us be honest about that—taking a piece of cardboard and a sleeping bag down to the Western Australian Cricket Association ground and having a cup of soup and a bread roll for dinner is never going to emulate completely what happens to people who are unfortunate enough to find themselves out on the streets. It happens to people in all walks of life. We heard from people who had been through that when we participated last year. It is a reminder to us that these things do go on in places such as Perth, but it is a way that we can give back as well by raising much-needed funds.

There is a challenge out there for other members to join me if they want to. They can go on to the St Vinnies website and register there as a participant. I look forward to that. It will be after a sitting night, so we can go straight from Parliament. We can grab our sleeping bags, go down to the WACA, sleep the night there and raise some much-needed funds for Vinnies. If members do not want to do that part of it—if they feel that they might already have commitments on that night and they cannot quite make it down there—they are very, very welcome to donate to me.

Hon Donna Faragher: Count me in.

Hon LIZ BEHJAT: Count you in; okay! If Hon Robin Chapple were here, he would be very proud of me; I am going to quote a website: www.ceosleepout.org.au. If members go to that website and follow the links to my page, they can donate to me, because I will certainly be down there on 21 June.

I just want to go on the record to again congratulate Vinnies for the really wonderful work it does throughout Western Australia and Australia and, indeed, throughout the world. It is a great opportunity for us to get on board and support organisations such as this. So do not forget: www.ceosleepout.org.au—21 June. Thank you.

MENTAL HEALTH FACILITIES — REVIEWS

Statement

HON LJILJANNA RAVLICH (East Metropolitan) [5.39 pm]: Today I asked a question of the Minister for Mental Health in relation to a four-person review. I did so because there is quite considerable concern and confusion within the mental health sector about the number of reviews currently going on in the area of mental health, particularly as they relate to admissions, treatment and discharge. It is probably less about treatment, but certainly the focus is on admissions and discharge.

I was interested in the response from the minister because, clearly, this four-person review had never been made public and certainly the Parliament has not been advised that this review was underway. It has been underway since December. The review will be looking at people who were discharged from the Alma Street clinic and, in fact, who have been turned away from the Alma Street clinic. That definition says to me that somebody who has presented at emergency, and has indicated they may feel suicidal or needs assistance because of their mental health condition, has been told, "We can't take you in; you're going to have to leave", or something to that effect. With regard to the number of apparent suicide-related deaths at Alma Street hospital, we know that on

2 May there were six apparent suicide-related deaths at that hospital. We also know there is possibly a seventh person, who has not been confirmed yet.

This is only about the period from March 2011 and only the people who have come to the public's attention. Since that time we know that, effectively, depending on how the minister has defined "turned away", two of those six may well fall into the category of the four who are being investigated under this third review. The real question needs to be asked: if it is a matter of two of those six being included in this four-person review, it means that two additional people are possibly apparent suicides related to that hospital who have not come to the public's attention. That means there may be as many as nine suicide deaths in total relating to the Alma Street clinic. That would be very, very concerning. I want the minister to put on the record some clarification about exactly how she has defined "turned away" and exactly what we are talking about with the number of apparent suicide deaths. Are all four a subset of these six that we already know about, possibly seven, or are we talking about one or two of these six and then two or three extra cases? Either way, something very, very concerning is happening. Anyway, we know an inquiry is being conducted into what happened to four people who were turned away from a major hospital and took their own lives.

Obviously, the Chief Psychiatrist will present a report on that. It is very concerning that his report, like most reports undertaken by the Department of Health—certainly those that have been, if we like, commissioned by the Minister for Mental Health—will predominantly rely on mental health records and information from root-cause analyses. Root-cause analyses are usually done for the benefit of the hospital to determine what procedures and processes can be improved to avoid the same adverse events occurring again sometime in the future. They are often a learning curve rather than an explanation of exactly what happened, which is what families want. Families may be to some extent interested in how internal hospital procedures can be improved, but predominantly the family's focus is on what has happened to their loved one; that is, why their loved one has died and whether that death could have been avoided. Sometimes it is about getting rid of any sense of guilt that the family may have. There are many, many reasons why people need those answers and they need that closure.

I have some concerns about not only the way in which this review will be conducted, but also the reliance on medical records. I know from the work that I have done in this area that medical records are not always accurate; in fact, medical records can be far from accurate. I was recently in Kalgoorlie and spoke to the daughter of Frances Cooper. Hospital representatives had met with Ms Cooper—that is, Frances Cooper's daughter—to discuss the root-cause analysis into Ms Cooper's death. The issue of the inadequacy of the records kept by the community mental health services was discussed, as was the inadequacy of the information on some of those records. When undertaking a comprehensive inquiry, relying only on those sorts of sources of information rather than in-depth information obtained by communicating with hospital staff and patient families et cetera, results, I think, in a second-rate inquiry. That is a serious problem and we need some things clarified.

Mental health is a very, very complex area with many, many challenges. This minister is failing to meet those challenges and this is yet another example of that. Yesterday, when I asked what was happening at Mowanjum and about the issue of project funding —

Hon Helen Morton: It is called Yiriman.

Hon LJILJANNA RAVLICH: Yiriman—yes, the Yiriman —

Hon Helen Morton: I am helping you out because I know you —

Hon LJILJANNA RAVLICH: Thank you very much—the Yiriman project. I referred to the Mowanjum area and the minister, across the floor, said, "Well, it has got nothing to do with Mowanjum." Minister, it has a lot to do with Mowanjum. I went back and traced the records and the minister was in fact sent an email by Mr Wes Morris on 10 April 2012 in which he was quite clear about the Yiriman business plan. He wrote —

> In your letter of 13 July 2011 you have outlined for us a number of processes. Sadly, I am afraid that to date, some 13 months after our delegation met with you, we are unable as yet to identify any tangible outcomes in relation to the October 2010 ***Yiriman Business Plan***. In writing that, we are clearly making a distinction between a process and an outcome. What we mean by an outcome is an actual resource commitment in response to the ***Yiriman Business Plan*** that was presented to the State Government in October 2010.
>
> Sadly … but … predictably, whilst there was a State Government Emergency Response to the issue of Kimberley Aboriginal suicide in and around March 2011, —

The minister will remember that —

> the incidence of suicide in the Kimberley has not diminished and there continues to be real alarm—particularly in the Derby–Mowanjum area at the present time.

For the minister to dismiss that yesterday by saying, "Well, what's that got to do with Mowanjum —

Hon Helen Morton: Yiriman doesn't operate in Mowanjum, is what I was saying.

Hon LJILJANNA RAVLICH: So the minister is saying —

Hon Helen Morton: Yiriman doesn't operate in Mowanjum!

Hon LJILJANNA RAVLICH: Well, it wants to and if the minister were to give it some money, it would.

Hon Helen Morton: You need to ask the Mowanjum people if they want them there.

The PRESIDENT: Order!

Hon LJILJANNA RAVLICH: Mr President, the point is that there is a major suicide issue, and the minister is aware of that. She is involved in lots of bureaucracy and the money is not going where it needs to go. But clearly there is a demand, and I have to say that the whole mental health area is increasingly a mess.

CRIMINAL APPEALS AMENDMENT (DOUBLE JEOPARDY) BILL 2011

Returned

Bill returned from the Assembly without amendment.

LEGAL DEPOSIT BILL 2011

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

ROAD TRAFFIC LEGISLATION AMENDMENT BILL 2011

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

House adjourned at 5.50 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

BROWSE LNG PROJECT — STRATEGIC ASSESSMENT REPORT

5124. Hon Robin Chapple to the Leader of the House representing the Premier

With regard to the development of the Browse Basin Gas Hub at James Price Point, I ask —

(1) Can the Premier confirm that the draft Strategic Assessment Report (SAR) prepared by the Department of State Development (DSD) for the proposed Browse LNG precinct at James Price Point includes commitments to prepare approximately 56 post-approval environmental and social impact management plans?

(2) Following receipt of public submissions and the preparation by DSD of the supplementary SAR 'response to submissions' document, has the number of environmental and social impact management plans committed to by DSD increased, decreased, or remained the same?

(3) Will the Premier table the supplementary SAR 'Response to Submissions' document?

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

(5) Will the Premier table a comprehensive and up to date list of the environmental and social impact management plans committed to in the SAR?

(6) If no to (5), why not?

(7) Will compliance with the environmental and social impact management plans committed to by DSD in relation to the Browse LNG precinct project be legally binding on relevant parties as set out in the management plans?

(8) If yes to (7), please outline the binding accountability mechanism?

(9) If no to (7), why not?

(10) For each of the environmental and social impact management plans committed to by DSD for the Browse LNG strategic assessment, who will be responsible for —

  (a) the preparation of the plan;

  (b) implementation of the plan; and

  (c) compliance enforcement of the plan?

(11) How much will the preparation, implementation and compliance enforcement of all these environmental and social impact management plans cost?

(12) Given Auditor General's findings, reported in 'Ensuring Compliance with Conditions on Mining', that relevant departments lack the internal systems and resources for compliance enforcement in relation to environmental and social conditions, how will compliance with all of the above plans be enforced and how will any non-compliance be reported to the public?

Hon NORMAN MOORE replied:

(1) Yes.

(2)–(6) The Strategic Assessment Report — Response to Submissions, including the environmental and social impact management plans committed to, will be publicly available when the Environmental Protection Authority releases its report.

(7)–(12) Environmental management plans will be governed by State and Commonwealth laws. While there is no legal framework to govern social management plans, a Precinct governance structure will be established to oversight the development, implementation, monitoring and reporting of all plans to manage environmental and social impacts. In particular, a Social Management Committee will be established to oversee social impact management plans.

Responsibility for the preparation and implementation of plans is outlined in the Strategic Assessment Report and Response to Submissions. All costs will be borne by the responsible organisation. The Department of State Development will be responsible for costs associated with the Precinct governance structure.

BROWSE LNG PROJECT — GOVERNMENT FUNDING

5126. Hon Robin Chapple to the Leader of the House representing the Premier

With regard to the development of the Browse Basin Gas Hub at James Price Point, I ask —

(1) Can the Premier confirm that Western Australian Government financial support for the Browse LNG project proposed to be sited at James Price Point is currently budgeted to cost $487 million, comprising —

(a) $111 million over five years to the Department of State Development (DSD) for the Browse LNG precinct (Budget 2010–11 at a glance);

(b) $256 million Native Title settlement and regional benefits package (over 30 years); and

(c) $120 million funding for James Price Point access road?

(2) If any of the amounts in (1) are not correct, will the Premier please detail the correct amounts?

(3) Will the Premier detail any further projected State Government expenditure on this project?

(4) For the allocations listed at (a) to (c) in (1), will the Premier provide —

(a) an annual breakdown of expenditure;

(b) clarification of whether any of the sums within these budgets, in particular within the $256 million Native Title settlement and regional benefits package, are funds that have been previously committed by the Government through other budgets or programs such as, for example, the government's Indigenous Affairs housing, education or training budgets;

(c) confirmation that, if none of these funds have been previously committed under other government budgets and all these funds are 'new dollars', that the allocation of these amounts will not simply be deducted from existing government programs and commitments to services in the Kimberley region or more generally; and

(d) clarification of how much of each of these budget allocations has been or will be reimbursed by Woodside if the project goes ahead?

(5) How much funding has been, or will be, allocated to the Environmental Protection Authority (EPA) to ensure it has the capacity to properly assess the impacts of the proposed gas hub and associated infrastructure?

(6) Is the Premier aware of how many staff the EPA has available to assess this project and the resources available to it to do this work?

(7) Given the disproportionate amount of funding has been allocated by the Government to subsidise and facilitate this project relative to the funds allocated to ensure the project is subject to a full, independent, transparent and rigorous environmental and social impact assessment, what does the Premier propose to do to rectify this failure of due process?

Hon NORMAN MOORE replied:

(1)–(4) The State has budgeted $126.5 million over five years from 2009–10 to meet the costs associated with the Browse LNG Precinct, of which $15.2 million has been reimbursed by Woodside Energy Limited.

This amount includes $85.1 million over forward estimates as part of the $256 million benefits package for Traditional Owners.

The Traditional Owner's benefits package will not be deducted from any existing programs or commitments. When a Foundation Proponent commits to a project at the Precinct, it will contribute an additional benefits package for Traditional Owners.

An annual breakdown of expenditure can be found in the State Budget. Any further expenditure is yet to be determined.

(5)–(6) Impact assessment is the core business of the Environmental Protection Authority and the allocation of resources is a matter for it to determine.

(7) Adequate resources have been allocated to facilitate the project, including the conduct of extensive environmental and social impact assessment.

BROWSE LNG PROJECT — JAMES PRICE POINT SITE

5128. Hon Robin Chapple to the Leader of the House representing the Premier

With regard to the development of the Browse Basin Gas Hub at James Price Point, I ask —

(1) In relation to the Premier's comments reported in the *Australian Financial Review* on 22 December 2011 which suggest that it is not feasible to pipe Browse gas to Karratha because 'higher costs would arise to develop new discoveries in the region' and that 'at some stage there is going to have to be a development on the Kimberley coastline', and I ask —

(a) to what new discoveries of gas is the Premier referring;

(b) which gas, aside from Browse gas, does the Premier foresee as being able to be processed at the James Price Point site;

(c) will the Premier rule out the possibility of gas from the Canning Basin being processed at James Price Point; and

(d) will the Premier rule out the possibility of gas from the Canning Basin being processed at James Price Point, even if Browse gas is processed elsewhere?

(2) In relation to the Premier's further comments reported in the same article that it was 'likely that more gas would be found in the southern Carnarvon Basin, obviating the need to pipe the gas from the Browse', what current need to pipe gas from the Browse to existing facilities near Karratha is the Premier referring to?

(3) In relation to the Premier's further comments in the same article 'hinting at a potential restructuring of the Browse venture, possibly involving new partners from India or China', will the Premier detail the possible new partners from India or China?

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

Hon NORMAN MOORE replied:

(1) (a)–(d) The proposed Browse LNG Precinct will be the only location for processing gas on the Kimberley coastline and will therefore be available to process any new discoveries of gas in the region.

(2) As indicated in the article, there is no need to supply Browse Basin gas to existing facilities as the Carnarvon Basin remains prospective for natural gas.

(3)–(4) This is a matter for the Browse Joint Venture participants.

ACTIVE TREE SERVICES — WESTERN POWER CONTRACT

5233. Hon Alison Xamon to the Minister for Energy

I refer to Western Power's contract with Active Tree Services, a contractor employed to assess and lop trees that may impact on power lines, and I ask —

(1) Who decides which trees are to be lopped?

(2) What is the notification period for residents that trees on private property will be lopped?

(3) What is the notification period for nearby residents that trees on public property will be lopped?

(4) What is the process for residents to appeal against any decisions made by Active Tree Services?

(5) How many complaints have been made about decisions to lop private trees since the commencement of Western Power's contract with Active Tree Service? Please provide year by year figures.

(6) How many appeals have been received against decisions to lop private trees since the commencement of Western Power's contract with Active Tree Service? Please provide year by year figures.

Hon PETER COLLIER replied:

(1) Western Power decides which trees are to be pruned based on recommendations received through its Vegetation Management Inspection contractors. Their recommendations are based on EnergySafety's Guidelines for the management of vegetation near power lines.

(2) Western Power initially provides 30 days' written notice. If the trees are still within the clearance zone at the end of 30 days, an urgent reminder notice is sent, which provides a further 7 days to comply.

(3) Western Power does not notify nearby residents when trees on public property are to be pruned

(4) If a resident does not agree with the assessment made by the responsible officer, they may ask to have the decision reviewed.

A qualified member of the Western Power vegetation management team will reassess the determination of its contractor. If the appeal is made after a tree has been cut, as well as this assessment, Western Power provides the resident with a written response along with any additional evidence collected, including before-and-after photographs and copies of notices issued.

If still unsatisfied, as outlined in Western Power's Customer Charter, the owner may request the complaint to be reviewed by a senior Western Power employee or may contact the Energy Ombudsman, who receives, investigates and resolves complaints against energy companies.

(5) Up until July 2011, Western Power records vegetation complaints did not distinguish between those undertaken by Active Tree Services and any others.

From July 2011 to 27 April 2012, Western Power has received 30 vegetation complaints where the work was undertaken by Active Tree Services.

(6) Western Power does not differentiate between an "appeal" and a complaint.

FREMANTLE PORT INNER HARBOUR — FREIGHT TRAINS

5278. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

(1) What was the average weekly number of trains that carried freight into the Fremantle Port Inner Harbour on —

(a) week days; and

(b) weekends?

(2) What was the average number of trains that carried freight into the Fremantle Port Inner Harbour in —

(a) 2008;
(b) 2009;
(c) 2010; and 2011?

Hon SIMON O'BRIEN replied:

The Fremantle Port Authority advises:

(1) (a) Approximately 15 trains per week.

(b) Approximately 2 trains per weekend.

(2) (a) Approximately 22 trains per week

(b) Approximately 13 trains per week

(c) Approximately 14 trains per week

(d) Approximately 13 trains per week

NARROGIN — HEAVY HAULAGE BYPASS

5287. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

(1) What planning has the Main Roads Department completed on the Town of Narrogin Heavy Haulage Bypass?

(2) What is the scope for proposed works and estimated cost for each stage of the bypass?

(3) What is the estimated date of commencement of this project?

(4) What is the estimated year when the bypass will be completed?

Hon SIMON O'BRIEN replied:

Main Roads Western Australia advises:

(1) Land acquisition, design, and preliminary clearing.

(2)–(4) Work will include a sealed road, rail crossing and road modifications. The project is expected to cost approximately $8.5 million and is subject to budget considerations.

PADBURY SENIOR HIGH SCHOOL — UPGRADE WORKS

5302. Hon Ken Travers to the Minister for Energy representing the Minister for Education

(1) In the 2008–09, 2009–10 and 2010–11 financial years, how much was spent on Padbury Senior High School on —

(a) maintenance;

(b) repairs; and

(c) capital works?

(2) What was the nature of the work undertaken in each category?

Hon PETER COLLIER replied:

(1)–(2) Expenditure for repairs is recorded under the Department of Education's building maintenance program. Please refer to the attachment for details pertaining to the expenditure and nature of

maintenance and capital works carried out at Padbury Senior High School for financial years 2008–09, 2009–10 and 2010–11. [See paper 4486.]

PADBURY SENIOR HIGH SCHOOL — UPGRADE WORKS

5303. Hon Ken Travers to the Minister for Energy representing the Minister for Education

(1) What work will be undertaken on the former Padbury Senior High School in —

(a) 2011–12;

(b) 2012–13; and 2013–14?

(2) What is the cost of these works in each financial year?

Hon PETER COLLIER replied:

(1)–(2) Documentation of the proposed works is currently being prepared and the costs and timeframe are to be confirmed.

Stage 1 will see the relocation of Special Education Needs: Disability, Special Educational Needs: Sensory (excluding the Early Intervention Centre), Primary and Secondary Support, Curriculum Partnerships, Regional Student Services Support, the Child Protection and Classroom Management Strategies teams, the English as an Additional Language Resource Centre and the Statewide Services Administration Team.

Works to accommodate these groups will include:

- new Universal Access and Fire Service requirements;
- replacement of lighting to meet new requirements;
- air-conditioning;
- data cabling and phones;
- other alterations and refurbishments;
- new carpets;
- audiology sound booths; and
- car parking and an access road.

Stage 1 as described above involves the relocation of approximately 275 staff and is expected to be completed by December 2012, with relocation complete by the end of January 2013.

Stage 2 will see the relocation of the Early Intervention Centre (EIC) from Cottesloe to Padbury.

Works at Padbury to accommodate this will include:

- new Universal Access and Fire Service requirements;
- replacement of lighting to meet new requirements;
- air-conditioning;
- data cabling and phones;
- strip-out of fixtures and services;
- new carpets and vinyl;
- new toilets, kitchens and other refurbishments; and
- playground and fencing.

Stage 2 as described above is expected to be completed by April 2013.

URANIUM — RADIATION MANAGEMENT PLANS

5390. Hon Robin Chapple to the Minister for Mental Health representing the Minister for Health

With reference to question on notice No. 4238, asked on 21 June 2011 and answered on 9 August 2011, I ask —

(1) In a Freedom of Information request made by the Conservation Council of Western Australia in 2011, it was discovered that at the time there were 45 radiation management plans for exploration activities in Western Australia. What is the current number of radiation management plans for exploration activities in Western Australia?

(2) How many of the radiation management plans are specifically for uranium exploration?

(3) How many of the sites, where there are radiation management plans, have been monitored, audited and surveyed?

(4) Will the Minister table the reports from the monitoring, audits and surveying?

(5) If no to (4), why not?

(6) Were these sites monitored by 'authorised officers' under the *Radiation Safety Act 1975*?

(7) If yes to (6), which agencies are the 'authorised officers' employed with?

(8) How many 'authorised officers' under the *Radiation Safety Act 1975* and the *Mines Safety and Inspection Act 1994* are there?

(9) What percentage of their hours is spent monitoring exploration projects that have a radiation management plan?

(10) Have the personal radiation monitoring providers provided dose reports directly to the Radiological Council?

(11) Will the Minister provide a summary report of the overall radiation, or particulate doses, of workers in uranium exploration in Western Australia?

(12) If no to (11), why not?

(13) Since the ban on uranium was lifted in 2008, how many extra staff has the Radiological Council employed?

(14) What has been the cost to the Department of Health?

Hon HELEN MORTON replied:

(1) There are 57 tenements with radiation management plans for exploration activities in Western Australia. Of these, five are registered under the Radiation Safety Act 1975 for radioactive mineralisation.

(2) All of the plans in Question 1 are for uranium exploration.

(3) None. Two of the five sites registered under the Radiation Safety Act 1975 have been visited by officers authorised under the Act. These were undertaken for site familiarisation only due to the nature of the work currently being conducted at these sites.

(4)–(7) Not applicable.

(8) There are eight officers currently authorised under the Radiation Safety Act 1975. Another two officers are expected to be authorised under the Radiation Safety Act 1975 within the next few months. There are currently no authorised officers under the Radiation Safety Act 1975 that are also a 'special inspector of mines' under the Mines Safety and Inspection Act 1994.

(9) Authorised officers' working hours are allocated as and when necessary to monitor exploration projects.

(10) Yes.

(11) No.

(12) A summary is not readily available as the monitoring reports provided to Council are for all persons monitored by the service providers and not just those involved in exploration activities.

(13) The Radiological Council does not employ its own staff. The Council relies on the Radiation Health Unit of the Department of Health for administrative and scientific support. No additional staff have been employed by the Radiation Health Unit.

(14) Not applicable.

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