

LOAN BILL 2012

Second Reading

Resumed from 23 October.

MR I.M. BRITZA (Morley) [3.49 pm]: I take this opportunity to speak about several community advocates in my electorate who have done a lot of work behind the scenes; they do not get paid, and they do not get the recognition or the accolades that many others in public life get, but it is our responsibility to advocate for them, to present their issues and to acknowledge them in this place.

I have several schools in my electorate; there are many, many primary schools, but until the boundary change, I had only one high school, Morley Senior High School. Since the boundary change, I now also have Mirrabooka Senior High School in my electorate. Today I want to speak specifically about Morley Senior High School. The principal, Gay Fortune, and her teaching and administrative staff are an outstanding group of men and women. Although the school has experienced some wonderful successes over the years and has a wonderful heritage, it has been through a rough patch. However, the school and the staff have come together and have put together quite a few things about which they can hold their heads up high. The school has had extraordinary academic success; in fact, many parents have chosen Morley Senior High School for their children after having tried many other schools, public and private, and have had wonderful results. Along with these academic successes, the school has had to deal with terrible and appalling tragedy, with loss of life of both students and teachers alike. The school has had to get through those events and come together, and it has done so extremely well and should be commended for that. The school has also had outstanding success in its sport and aviation accomplishments. The students, particularly in the aviation department, have been extraordinary. Students of 15 or 16 years of age have earned their pilot's licence, which is wonderful. I know that for many years, long before I became a member of Parliament, the school was dealing with an inadequate toilet block. It seems a bit strange to talk about this kind of thing in the house, but for at least 15 years, maybe more, the school had to deal with an unsuitable toilet block and, finally, I am glad to say, this government gave the school an upgrade and the toilets have been fixed—about which everyone is very, very thankful.

Mr D.A. Templeman: Very relieved, I would have thought!

Mr I.M. BRITZA: Yes, I agree! But now the school is dealing with two issues that are very important and that I want to bring before the house. The science rooms have not been touched for more than 20 years, maybe even longer. They should have been renovated many years ago, and I am advocating for these rooms in particular to be renovated, as many other schools have been renovated. I have been to Hampton Senior High School and I have seen the renovation of the science block there; it is outstanding, and I feel that our school deserves just the same. Like most other schools, Morley Senior High School has sports facilities that genuinely need upgrading. But in spite of these difficulties, the school still experiences excellent enrolments and has a teaching and administration staff that I believe would be the envy of any senior academic educational institution in our state. Along with its outstanding administration, its graduation students have consistently surpassed the highest expectations, and their parents should be justifiably proud of them.

I turn now to a group of people of which the general community often does not have a lot of understanding, and in many respects does not really care about. I refer to the Friends of Lightning Swamp. I would not call myself a greenie, but I would call myself an environmentalist, and I think it behoves us to listen to people who actually care about things that we may not have a full understanding of. The Friends of Lightning Swamp, led by John Williams, has fought long and hard to bring about an understanding within the community of the importance of this environmental heritage. John and his team have worked very, very diligently to protect this small reserve by building fences around the property. Unfortunately, their work has fallen prey to antisocial behaviour and the fences have been uprooted and damaged, but they have also established boardwalks so that schools can walk into the area without damaging the ground. Unfortunately, even these have fallen prey to social disorder and many of these wonderful things that the environment group has put together have suffered from extreme vandalism. Now, having finished these with the help of the City of Bayswater, we are planning to build an educational centre in order to instruct and educate the children on the importance of taking care of the environment around them. In this respect, I am very supportive of the group. I have joined John and his team undercover, so to speak, for the last three years to assist them to have their voice heard in the community. I believe that Lightning Swamp simply must not be allowed to degenerate and fall apart, especially because of the poisonous stormwater run-off that eventually runs off and seeps from the Malaga business centre; it appears that no-one seems to care about this, but disgraceful run-off comes from that area, and it is something that I believe we need to get hold of. The Department of Environment and Conservation has taken away a lot of the oversight of the poisons of that area, and it is something that we need to stand up and fight off and reinstitute. I, for one, commend the Friends of Lightning Swamp and trust that they will be able to get their message across to our community.

The Morley Noranda Recreation Club lies at the very centre of my electorate and it is a hub of activity amongst seniors, as well as many other people who use its rooms continually. The president, John Payne, is a very colourful man and retired principal who is never afraid to speak his mind. He runs a tight ship and a very successful one—one of the most successful lawn bowls clubs in Western Australia. Although the recreation club is primarily a lawn bowls club, it also has a very strong darts club. There are several rooms that are extensively and constantly used by the public; in fact, there is no more room now for the public to use, and it is rapidly approaching the point where demand outweighs what they have. The club is increasing to such an extent that it needs substantial funding to renovate and extend its rooms in order to keep up with public demand. I advocate for this, because it is something that our community needs. Younger people are coming in, slowly but surely, but it is primarily a place where seniors meet. It is very important to us.

Several months ago, the Premier joined me at the Lightning Park Recreation Centre, which is the home of the mighty Noranda Hawks. We met with the president, Mr Shawn Blanch, and also members of the board and parents. There was also a group of five or six kids who had a football and they handballed to the Premier; he took that ball and kicked it back to them like he had never lost his touch from when he played football. It was quite amazing; I was delighted to see his dexterity in that form. We spoke with them for quite a while, and after meeting with them I decided to assist the club in personally providing the finances for a new scoreboard and siren. That may not seem like much, but they had a really—I do not know if this is the right term—piddly little siren that could not be heard when the game was finished. A couple of times the game had finished with only a couple of points the difference, but play continued because nobody could hear the siren, including the umpires. Now they have a siren that I reckon can be heard all around the electorate; we paid enough money for it, but I am proud that they have got that and I was delighted to be part of it. However, the rooms in which they hold all their functions cannot cater for all the parents. They have too many members. The junior groups are growing at a phenomenal rate, which is absolutely outstanding, but they too desire funds to increase the size of their clubrooms so that they can keep up with the demands of both the parents and the young boys who are learning to kick a football. The Noranda Hawks club is within the East Perth Football Club area, and it gets great support from the East Perth Football Club, of which I am a member and have been a supporter for many years now. I am delighted about that. Mr Shaun Blanch and his team should be very proud of their club, and we are supporting them strongly to get their clubrooms.

My electorate has a vast number of seniors. Until the electorate boundaries changed I did not have a retirement home in my electorate, but with the boundary changes my constituents include the residents of the Rosemount Retirement Village, which I have visited many times. I have been delighted to go to Rosemount and meet its residents. Mr Warren Brady, who runs the Rosemount village in my electorate, needs to be commended, simply because it is often a thankless task doing the things that he does every day, seven days a week. All the staff and the residents are a credit to the electorate and the community as a whole because of the continuing and delightful way they approach the wonderful seniors in their later years, when there are ever-increasing challenges in their lives. It is a place that the community ought to recognise more fully.

I am beginning to close, just to give the Deputy Speaker a little hope! Law and order is still the number one issue not only in my electorate but around the state. It does not matter on which side of politics we stand, our seniors are concerned about law and order. They are concerned about being safe in their homes. Unfortunately, the Deputy Speaker and I, along with many other members, have many constituents who have been robbed while they have been in their homes. Some of my constituents have not only been robbed in their homes but assaulted as well. Seniors are frightened, and the issue of protecting them is very important. The police are aware of it. We are aware of it. We hear them. We acknowledge their concerns. I want to declare that not only do I support them in principle, but also it is the top concern I have in my electorate. People need to feel safe to walk down to the shop, walk around the block or walk their dog. I believe that it does not matter who is in government, the people of our state need to be able to live in their homes and know they will be protected by the police force. This is something we cannot emphasise enough.

The last area of concern I want to bring to the house relates to constituents who live in a particular area on Noranda Avenue, Noranda. I take this occasion to present a very difficult and complicated matter concerning disruptions to the water supply that happen several times a year in this street, and it has been happening for several years; the pipe breaks in the same place in front of the same house on top of a hill. Their garage fills up with 150 centimetres of water. I can see the frustration of these people. Even though I go there to see them, to hear them and to get an understanding of what they are dealing with, I feel frustrated when the department comes out, digs a hole in their lawn and there is sand everywhere. When I drive down that street, it seems that every 20 metres or so new concrete and bitumen has been laid because this pipe just keeps breaking. I have been told it is a seal problem. I do not care what it is! For the last several years, these people have had their water cut off for a couple of days at a time, and it is just not good enough. I know that we have got to a place at which it is very easy to take for granted our electricity and water supplies. But we do need them, and when we do not have them,

especially in our senior years, it is a very difficult thing. I want to bring this issue up on behalf of my constituents, because we need a solution to this issue that they face on a regular basis. I bring that issue to the house on their behalf.

In this last couple of minutes I want to acknowledge my staff. We all think we have the best staff in the world.

Several members interjected.

Mr I.M. BRITZA: I see that there will be a continuous disruption concerning this. It is good that our staff know that we feel we have the best staff. I am very grateful to have three female angels who look after me. When I chose my staff, I made sure that my wife was there as well, which was a good decision. These women protect me in every way possible. I am very grateful to them and for their patience in guiding me in what needs to be done in my electorate. It is an outstanding electorate. The majority of my constituents are seniors, of which I am nearly one. It is a wonderful thing to present their concerns before this Parliament and this government and to get a solution in the areas they need assistance. I appreciate the opportunity to represent them.

MR J.C. KOBELKE (Balcatta) [4.05 pm]: I wish to use this opportunity to place before the house something that is causing me very serious concern in the care of aged people, particularly aged people who are no longer competent to look after their own affairs but who have loving family members who are involved with their care. The concern for me is nothing compared with the horror that has beset a number of families that have come to me with these issues. I am very concerned, as it appears that it almost amounts to state-sponsored elder abuse. We are cleaning up the mess that we made by removing Aboriginal children from their families. We have ongoing issues from young unmarried women having their babies removed from them. We have the issue of child migrants and how the state handled that poorly. I fear that if I do not speak up and this house and the government do not take action, we will end up in future years hearing the stories of all these people who have had the state intervene in their care and simply left them without adequate care. The state has a role in some instances and public officers have to take control of the lives of people, but they should not be doing it to the exclusion of loving family members. That is the issue that causes me great angst. I believe that our system is out of balance. It is not one part of the system; whether it is the State Administrative Tribunal, the Office of the Public Advocate or aged-care providers, the whole system needs to be reviewed and the balance reset.

We know that we have a growing problem in our community with dementia. People are living longer and losing the ability to look after their own affairs, and we need to manage that; we need to assist them. That places a considerable requirement on governments, state and federal, to help these people. However, when people have loving family members committed to their care, I believe the state should not be interfering. This is not a Stalinist state. We should not have state officers appointed to take over the management, the guardianship or the administration of aged people with dementia when there are loving, capable family members who are willing to do that, and have done so for many years. However, by putting in place a guardianship order, these people are locked out. They are pushed away from their loved parent or wife. I fear that sometimes these decisions are being made for the administrative convenience of the aged-care provider, because it is easier to put in a public officer and one-step remove the loving family members who are complaining that the person is lying in their faeces and not being looked after, or the window is not being closed and the person is cold because the wind is blowing on them; or the alarm bell to call a nurse is not within the person's grasp. When people complain about these and like issues time and again, it seems that it might be an administrative convenience for the aged-care provider to simply appoint the Public Advocate, so that when the loving family member complains, they are told to go and see the Public Advocate as they do not have the legal right to represent their mother or their wife. This is something that I believe is totally inappropriate; it is a matter that causes me great concern.

My mother is 92 years old. She is not competent to look after her own affairs. She sometimes does not know my name. She thinks I am a train driver. She keeps saying that she wants to come for a ride on my train. But she knows when I am there. She says, "You've made my day. It's so great to see you." It is great to see her, to hold her hand and to help her. I therefore understand the real concerns and problems that these families are going through—I will talk about the cases I know about in a minute—when they are shut out from providing that loving care for their mother or wife. Quite often that time spent cannot be provided by a paid public servant. Our aged-care providers are under stress. They cannot have someone stay there for hours holding a person's hand, comforting them, giving them a glass of water and trying to make them more comfortable. This is not to say that our aged-care providers do not do a fantastic job. But there are economic realities of the number of staff and the time that they can give, so we should be doing everything to encourage those loving family members to give that support to aged persons who are no longer competent to look after themselves. We should not be shutting them out by putting in place public officers to take care of their needs. Often when people get to that age, particularly if they come from a non-English speaking background, the family members have a much better understanding of what they are trying to say. It might be a nod in response to questions asked of them. It might be a particular way in which they talk that the family is aware of and understands the implications of what they are trying to

communicate. There are many loving, paid people working in aged care, but they do not all have the ability to understand people from a different language background or the peculiarities of each individual in order to have that level of communication that a close family member has. We should therefore be doing everything to encourage those family members to have that closeness, to have that care and to spend time with them, and not be pushing them away by putting the Public Advocate in their place. These aged people are vulnerable; they often cannot speak up for themselves. A loving family member can do that. If they do it in a way that is inconvenient to the aged-care provider or if they are a bit aggressive in their ways because they feel that their mother or wife is not getting the care they want, then yes, that is a management problem for the aged-care provider and would not always be easy to handle. But I believe it is an extreme resort to push those people away and put in a public officer to represent the interests of that aged person. We do need public guardians and public administration because there are times when family members abuse their aged relative and do not look after their best interests. In those cases we do need people to step in. The issue is then whether we are actually to take this matter seriously and make sure that there is no state-sponsored elder abuse in the way in which our system is currently functioning, because we do have within our public sector many good professional people who do a good job.

I now refer to the State Administrative Tribunal and the number of guardians appointed for adult people that I have been given in answers to parliamentary questions. In 2006, there were 204. In 2012, if we take the figure up to the month I was given and spread that out across the year, it is likely to be 650 in the current year—a threefold increase. A small quote from the annual report of the Office of the Public Advocate for 2011–12 states —

In 2011/12, over 40 per cent of new matters referred for investigation involved a person with dementia and nearly 40 per cent of the people for whom the Public Advocate was appointed guardian for the first time have dementia.

The office, according to this annual report, has 42.8 full-time equivalent staff to look after hundreds of cases, to provide reports to the State Administrative Tribunal, to be there to look after the interests of these aged people, to communicate with family and to communicate with the aged-care provider. They simply do not have the resources to be there when the person has a problem, when they are rushed to hospital or when they are not being looked after—yet the loving family members are removed. If when they talk to the aged-care provider and they have a stand-off or a problem, they are told to go and see the Public Advocate. They then find that the person from the Office of the Public Advocate who has been put in charge is on holiday and is unavailable. It is ridiculous to put in a representative of the state between loving family members and an aged person who needs that level of care. The state therefore is unable to provide the resources to put in public servants to take on the role of loving family members.

I will refer to the Guardianship and Administration Act 1990. The principles stated in section 4 to be observed by the State Administrative Tribunal go to two main sections that I think are relevant to these cases. Subsection (2) states —

The primary concern of the State Administrative Tribunal shall be the best interests of any represented person, or of a person in respect of whom an application is made.

Clearly the judgement should be about their interests, not the interests of the aged-care provider, not the interests of the relatives, but the interests of the person who actually may have a guardianship and administration order made for them. Further on, subsection (4) states —

A guardianship or administration order shall not be made if the needs of the person in respect of whom an application for such an order is made could, in the opinion of the State Administrative Tribunal, be met by other means less restrictive of the person's freedom of decision and action.

So, again, the order should not be made if a less restrictive means could be used. Clearly, orders may need to be made for these people, but I would think in the spirit of that, it should be a family member.

I come now to quickly go through four cases, if I have time, of people who have been caught up in this issue. I would like to talk about Jim and Valerie. Jim has come into my office on many occasions totally distraught about how his wife, Valerie, has been taken away from him after 30 years of marriage. I have ample evidence that they have a very warm, loving relationship. They are pensioners with a comfortable home in my electorate. Jim has been the main carer for Valerie, who is 82 years of age, since her stroke in 2008. Valerie is frail, has dementia and suffers seizures for which she is prescribed Epilim. She cannot verbally communicate but Jim certainly tells me that he sees the affection in her eyes when he is caring for her. On various levels of Epilim, she still has seizures, so it is a matter of balancing the medication because if she takes too much she becomes drowsy, falls asleep and misses a meal. Jim has some medical problems of his own but he is fortunately in good health at the moment. He certainly feels he is most capable of looking after Valerie. He is totally devoted to her care. Up until about a year ago he fed her, used the thickening fluids that are needed for her food, medicated her, bathed her,

toileted her and used the hoist that he has in the house. The policy across state and federal governments has been to enable people to stay in their home and to be cared by loved ones. Carer support was provided seven days a week to come in and help Jim look after Valerie, but Jim got ill and Valerie had to go into respite care; and, through a range of times in and out of hospital, the aged-care provider decided that a public guardian needed to be put in and that Jim was no longer capable of looking after his wife, Valerie. Clearly there were concerns at the time about Jim's health, but I believe that we should have simply upped the support to allow him to do that at home. I think that would certainly have been a very practical solution to the problem. When they get to the State Administrative Tribunal, hearsay evidence is accepted as if it is fact. The fact that Jim has not got on with his stepchildren very well was used to say there is dissension in the family. One stepdaughter supported him and two other kids did not. That was used to say that he could not look after her, even though he has been doing it for several years. The doctor wrote a letter, which was not entered into evidence at the time, saying that he has seen that loving relationship and the good care that Jim has given to Val. The whole thing was twisted to try to make it look like he could not look after her because of some little problems in the family and because he changed the medication slightly when Val was getting too sleepy. He gave an undertaking that he would go through a training program if necessary, but no, Val was put into a nursing home. Jim visits her almost every day and spends several hours there trying to look after her, and it is eating his heart out. He wants Val back in their home where he can look after her. It is destroying him. Yet we put in a public administrator to look after her and lock Jim out of being the primary carer for his wife, Val.

The second case involves a woman I will refer to as Mrs T because her daughter is a state government employee, a professional woman, and at this stage does not want her name released. Mrs T is an 80-year-old of Italian background who, in better health, can walk with assistance and communicate with family members in single words or short phrases, and, through that, make known her wishes. Mrs T was transferred from Sir Charles Gairdner Hospital's delirium unit to the Osborne Park older adult mental health unit in 2009 with a urinary tract infection and serious delirium in the context of existing dementia. She was a problem. She was making a lot of noise and disturbing other people in the ward. The family, particularly her daughter, Miss T, agreed with the doctors to try different types of medication. Because she is professional, she knew what were appropriate levels of medication in these cases. When the doctors wanted to go beyond what was recommended as reasonable, the family said no. They were not happy with some of the treatment that was being given to their mother. It was so bad in one case that her daughter took her to Sir Charles Gairdner to try to get a second opinion. She not only had dementia but also suffered from a range of conditions, as the Minister for Health would know, relating to bowel retention, which sends people off if those things are not balanced. Because Miss T took her mother to Sir Charles Gairdner Hospital and got a second opinion, the social workers or the psychiatrists went to the State Administrative Tribunal and got a guardianship order against the two daughters and the son who were caring for and seeing their mother almost every day. They had been taking her washing home and bringing her food. They were just locked out. In fact, one of the daughters, not the Ms T whom I mentioned, wrote an email to me outlining how humiliated they felt in front of the State Administrative Tribunal. According to my notes, it states —

I suppose until it affects them, or you, the public, you will never know how it feels for some stranger to take over your loved one's life and decide what, and when she should eat, sleep, be drugged out, used for drug trials, walked, and changed. Our mother has feelings, we the family feels them, see her internal pain and suffering, and share that with her, but we the family remain helpless, because the SYSTEM shuts us out and so we have to sit back and watch her die slowly. Where is the justice in THAT?

These families are just being torn apart by being locked out.

[Member's time extended.]

Mr J.C. KOBELKE: Mrs T was transferred from Selby Lodge to a southern suburb aged-care facility, so her daughter has a 50-kilometre round trip to visit her mother. She visits her almost every day. Because her mother had a new doctor, the daughter phoned the doctor and asked if she could come and see him. She thought he was a wonderful doctor. She explained her mother's medical history, her bowel retention problems and about her not getting enough fluid. The Public Advocate said, "You have no right to see that doctor." A little later she emailed that doctor setting out a whole lot of issues about her mother's condition. A representative from the Public Advocate wrote her this letter, which I will read in part —

Thank you for your fax dated 11 September 2012 regarding you mother ... the contents have been noted.

I am leaving out certain parts that identify people. It continues —

I am also aware that you have copied this fax to your mother's GP despite being aware that further contact with the doctor would result in the doctor withdrawing his services, as discussed at the meeting on 31 July 2012.

... Manager ... HDU, called on 13 July 2012 to advise that the doctor has withdrawn his services as of 3pm on 12 September 2012. She further advised that she will attempt to have a locum doctor agree to visit Mrs ... in the interim.

The Public Advocate is very concerned about this situation and considers that Mrs ... health and well being have been compromised as a direct consequence of your actions which is unacceptable.

I find that letter abhorrent. Miss T has relayed to me that she had great confidence in the doctor. Obviously the Public Advocate or the aged-care provider has gone to the doctor and, I surmise, pointed out that he could end up in litigation if he communicates with his patient's daughter, and the doctor has withdrawn. Given all I have been told, why else would he withdraw? We have this interference by public servants between an aged person who needs help and a loving family member. The State Administrative Tribunal has got the balance wrong. People should not be getting between the aged person in care and their loving family members.

The third case involves Dorothy, who has lived in an aged-care facility since August 2009. She was a Macedonian speaker but she cannot speak now because of her condition. I am told that she is mentally quite alert but has a communication problem. She has two daughters, a son and a husband. This case was taken to the State Administrative Tribunal without her husband getting a chance to be there and without her son or two daughters being there to represent their mother's interest, and the Public Advocate was made the guardian for their mother. The hospital makes an accusation that the son who has visited his mother every day has sexually interfered with her. This is totally unbelievable. This woman cannot talk. How did the hospital get an accusation out of her? She would have had to have been led to it. The hospital got a violence restraining order against him to stop him going to the hospital. One was withdrawn and the other one was simply rejected when it went to court as there was no basis to it. The daughter visited her mother on Easter Sunday with her teenage son. The hospital said that her teenage son was not on the list of approved visitors and he had to leave. A teenage son seeing his grandmother on Easter Sunday, a special occasion for the Macedonians, is thrown out of the aged-care home. When the family inquired, they were told that there was no list, but that is what they were originally told because they kept complaining that the aged-care program was not being adhered to for their mother. We are seeing administrative convenience being used as a way to keep people out because the Public Advocate, with respect to Dorothy, has been given the legal power to decide where she is to live, with whom she is to live, any treatment or health care she can have and who can visit her, and has the authority to commence or conduct a range of legal proceedings on her behalf. That is a standard clause in these cases.

I do not have time to speak at length about the case involving Ms S. Ms S, in the Supreme Court judgement by Judge Heenan, had her property taken off her and sold. All her belongings were lost and the Supreme Court found that SAT had no legal grounds on which to do it. SAT was told that there was a psychiatrist report and used that assertion as evidence, but the Supreme Court showed that there was never a psychiatrist report. It never existed. But a health worker came up and said, "We have a psychiatry report; we'll tick the box saying she is not competent and therefore a guardian has to be appointed." The guardian was appointed, the house was sold, all the property lost and Ms S has no comeback because the State Administrative Tribunal simply took hearsay as evidence. That is common in the three cases I have already mentioned.

I will finish now, but this Parliament has to do something about addressing what I believe is a major problem. I am not saying that we do not have good officers trying to do the right thing but, clearly, the whole system is out of balance. We see the role of public servants as being ahead of family and that should not be the case. We should be doing everything to keep families together to help loving family members care for their aged loved one. We should be supporting them, not getting in the way and excluding them because it is administratively convenient to lock them out. In the cases that I have given, that is what has happened. There are difficult cases and I understand that aged-care providers, nurses and social workers will see the real difficulties in handling some of these people, but we should not just go for administrative convenience to lock people out.

Debate adjourned, pursuant to standing orders.