RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Second Reading

Resumed from 27 November.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.17 pm]: On the last occasion that we were dealing with the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018, last night, I was working my way through the observations, findings and recommendations of the thirty-eighth report of the Standing Committee on Legislation on this bill, because much of what the committee has to say is not necessarily by way of a specific recommendation or even by way of a specific finding, but there are elements in the report that are of significance and highlight some of the potential problems that this legislation poses, and I would suggest areas that it can be improved. I got to the point of trying to draw a causal link between what is said to be the rationale of the bill—protecting those who may be the subject of or exposed to family violence—and the need to legislate to alter property and contractual rights in order to provide that element of security and safety.

I made the observation that although the report had a bit to say about the scourge of family violence, the harm that can be done by it and the like, there was very little in the report to draw the conclusion that a significant element of the harm that is done by family violence is as a result of the law governing lessor–lessee arrangements in residential tenancies. It had even less evidence on which to draw the conclusion that the changes that are proposed, and the degree of the changes proposed, will have any significant difference. For example, paragraph 5.6 of the report tells us that we know that family violence is the leading cause of homelessness. That may be right. However, according to the committee —

> The number of persons living in residential tenancy properties and experiencing family violence is unknown ‘because it is just not a statistic that is gathered anywhere’.

That seems to be fundamental then, unless one is relying entirely on anecdotal evidence, to say that the solution, if we can call it that, proposed by this legislation is in any way related to the problem that is being sought to be addressed. Paragraphs 5.7 to 5.9 deal with existing elements in the Residential Tenancies Act that might be thought to be useful in having a court terminate a tenancy. Under the bill, it is proposed that the termination of a tenancy can be effected by a notice signed off by a variety of people—quite apart from a court or a violence restraining order of some sort in which there is an element of establishing the facts that would warrant those sorts of orders being made. On the contrary, contractual rights can be extinguished and changed by reference to medical practitioners, police officers—I can see the argument there—and social workers. I will get to those in due course. A facility in the Residential Tenancies Act, as identified by the committee—that is, section 74—allows for the termination of a lease under what are termed undue hardship provisions. The committee says that that is inadequate. It was certainly contended by those in what is called the industry as inadequate and two examples are cited. The conclusion in 5.10 of the report is —

> As these above case studies show, currently (unless a lessor agrees to early release), the tenant is liable to pay rent until the end of the agreement or until the premises can be relet.

In other words, until the end of the contractual arrangements they have entered into and upon which the lessor is relying. It continues —

> DMIRS said ‘experience in conciliating between tenants and landlords, as well as industry experience, tells us that there are many occasions when landlords do not agree to release a tenant’.

There is no explanation of the circumstances or whether the circumstances involved family violence. It may be that a landlord simply does not want to release someone whom he knows can pay but who simply wants to move to somewhere else. There is no connection, even in the committee report, between a landlord’s reluctance to release a tenant from their contractual arrangements and that tenant being a victim of family violence. If a tenant wanted to be released from their contractual obligations and did not give a good enough reason for it, I would be inclined to sympathise with the lessor. Why would we release them? But we are being asked to rely on this. I will not go into the two case examples in detail, but I will quote two bits out of the first case that is cited —

> The client applied for termination of the tenancy under hardship provisions —

Presumably section 74 —

> and raised domestic violence, but the application was dismissed as the Court did not seem to take this into account.

Either it did or it did not. Maybe the application was not run properly. Domestic violence was raised, but in what fashion? Was it as part of the ground for the application? We do not know. From the case example, we know that a second hardship termination application was made and an affidavit was put in evidence and there was a settlement with the lessor. It does not seem unreasonable or particularly onerous for someone to give a good

enough reason for the termination of their tenancy, alleging hardship. We do not know how competent that application was in the first place and whether it addressed the issues in a way that they should have been addressed before the court. The second example is simply a paragraph —

> The perpetrator co-tenant remained in the premises. The lessor agreed to release the tenant but the co-tenant perpetrator would not agree. The tenant remained liable for the rent and any damage until the tenancy ended.

That does not tell us that it could not be dealt with under the hardship provisions. If there is a need for the readjustment of contractual obligations on the basis that the co-tenant was a perpetrator, sure, there is a great justification for that in the proposed bill, but it does not necessarily mean that the obligations of the lessor ought to be affected. There are evidential problems with what is advanced in the report.

The report identifies policy features in the bill. I think it is curious that there is a trend nowadays of finding it essential to work from a human rights framework for a justification for legislation that addresses social harm and antisocial problems. It appears that we need to call this a fundamental human right that has been violated, rather than saying that harm towards others is an undesirable thing and therefore we will protect people from harm against others. In legislation nowadays we seem to need to proclaim that something is a fundamental or essential human right and term things in a human rights framework rather than look at what the problem is and try to fix it. I do not understand that, but there we are.

Paragraph 5.11.2 refers to the potential costs of family violence and that is all very well. Again, it does not address the particular issues this bill is looking at. Then we look at deleterious outcomes, and the committee has identified some of those. The first one, at paragraph 5.11.3, states in part —

> The potential for perpetrators to become homeless or discriminated against because of a conviction on a charge relating to family violence.

The bill seems to want to have it both ways. It wants to hold perpetrators to account for the consequences of their actions on the assumption that they are perpetrators based on allegations of family violence, and have all sorts of consequences flow from that, yet it does not want them to have the consequences of being perpetrators of family violence. This is important, because I can understand the rationale behind this. We are looking at a fairly low threshold that might taint someone, but that low threshold is being applied to alter contractual relationships with innocent third parties; namely, lessors. It is preventing that innocent third party, the lessor, from doing any due diligence to avoid being exposed to the problem of having leased out their place in good faith and then finding that their tenants are in a dysfunctional relationship, which they will have to bear the consequences of when it breaks up. I do not diminish the trauma for those suffering family violence—far from it. At the end of the day, the consequences of this obligation are being worn by a party who cannot control what is going on and is unable to find out, because the people in these dysfunctional relationships—when there is even a possibility of exposure to family violence, not even family violence—are being protected at the lessor's expense. The lessor cannot do anything about it. I would like to hear what the government says is the balancing exercise, rather than being unashamedly on one side against another.

Paragraph 5.11.4 states that the legislation raises the potential for manipulation and misuse. It continues —

> Industry's main concern is sitting tenants —

I do not know what "sitting tenants" means —

> may use family violence as a way out of a lease in the absence of family violence, for example, the breakdown of a relationship.

That is quite right. The breakdown of a relationship does not necessarily imply family violence. It just means that people find that they do not like each other, cannot get on and do not want to live with each other anymore. If people are stuck as co-tenants with contractual obligations, there can be a significant temptation for one to say that the other is a perpetrator of family violence and that they are in fear, and ask to be let off the obligation. That concern has been raised by the industry. Paragraph 5.11.4 continues —

> REIWA indicated the five year review proposed on the supplementary notice paper will be an opportunity for industry to monitor and ensure misuse is 'limited and rare'.

Thank you very much to the industry and the Real Estate Institute of Western Australia, but REIWA does not represent all lessors. REIWA is saying that it will worry about the legislation in five years—thanks very much! If a person is trying to cover a mortgage by renting out their house and their tenants say, "Let me off the hook because I have had a threat of family violence and I am really frightened of it. I have a certificate from a doctor who says that I am a victim", where is the decision of a competent jurisdiction, at the very least, or someone who is a truly independent party and able to make that sort of assessment? There is not one. I should add that an opportunity for industry to monitor this practice will not necessarily ensure that misuse is limited and rare; it just means that it will

find out about it during the course of five years. It does not ensure anything, because there is nothing we can do about it—the law is what the law will be. The report points out at paragraph 5.11.5 —

> … lessors have no right to compensation for termination.

But there is a comfort there —

> … Shelter WA argue that the Bill 'will go some way to protect the assets of landlords who rent their homes'.

There we go, an advocate for one side is saying, "You have no right—we agree with that—to any compensation, but the bill will go some way towards protecting your assets." I do not know what that means and perhaps someone can explain it to me—what will be protected and how?—especially when it is coming from advocates for the policy behind the bill. I should stress, in case my words are twisted and misrepresented, that I do not deny there are problems in this area that need to be addressed. I do not deny the genuineness of the advocacy by advocacy groups for tenants and for those who may be on the receiving end of family and domestic violence, but we are talking as lawmakers, and as a government, what is more, about putting forward a modification of contractual rights that will affect one group at the expense of others and there are no checks and balances. The government has not looked at how the bill will go some way to protect anything that I can see—quite the contrary. It is unashamedly, the government says, biased in one way to promote one interest and ignore others. Why not go all the way to protect the assets of landlords? Perhaps the government needs to look at the issue a little more broadly rather than just signal a desire to fix the problem and find a tool for it, which may not actually address the issue.

Paragraph 5.11.6 goes through the financial loss to the lessor. The report concedes that the committee noted that the department's —

> … calculations in Appendix 3, whilst claiming to be 'worst case scenarios' were based on an average re-letting periods.

That is the costs involved when lessors suddenly find that their tenants are departing. That is no comfort; it does not go any way towards helping lessors. I do not hear the government saying, "Protecting victims of family violence is everyone's problem. It's a community problem and we will step in and compensate lessors on the rare occasions when it may be necessary to secure people's safety." No; the government has effectively thrown the entire burden onto lessors. The committee report goes on to state that the legislation we are amending is structurally biased against persons experiencing family violence. I find that an extraordinary conclusion—structurally biased. The legislation may not achieve what the government wants, necessarily, but to say that it is biased against persons experiencing family violence, when it is trying to deal with a contractual relationship and the competing interests there, is very different from the social agenda that is being promoted by the amendments. That is a different thing entirely.

It appears the bill manifests a human rights approach to family violence—not a harm reduction approach or safety of people in the community approach. Those are too trivial; we must have a human rights approach! That must make it right. Human rights is a pretty flexible concept and, regrettably, in my time, I have found that just about anything that anyone wants that they are not able to get is elevated to a human right that they should be entitled to. Of course, government has to balance these considerations. But it appears that we can take comfort that the bill has a human rights approach rather than a harm reduction approach or a safety of people in the community approach. I do not know what it means—but, there we go. Apparently, that is a justification for the legislation being unashamedly victim focused.

At paragraph 5.14 we end up with the comment —

> While some financial loss remains for the lessor —

That is, "some" loss —

> the Committee received evidence that these losses may be reduced —

There is a reference to paragraph 5.11.6(3) that states what it might cost for a lessor to go through a court and get their rent and alike back —

> However, there was an inadequate period of time for the Committee to establish whether the information provided by DMIRS was endorsed by property owners.

The report lists several organisations and states that no submissions were received from them. That is part of the problem with this legislation. This bill was introduced into this place with a great flurry of publicity on 28 June this year and then it gathered dust until October. It was not brought up for debate. It is now really urgent apparently. Advocates and victims are anxiously hanging on to the passage of this bill. It was only on 17 October, when it saw the end of the year coming up, that the government saw fit to bring on the legislation and then refer it to the Standing Committee on Legislation for examination. The committee was given a month to do that. What is going on? This is a significant change to the tenancy legislation in this state and all sorts of problems have been raised by the committee, and the government does not have the time to properly explore them, let alone suggest improvements to achieve the balance that it recognises the bill might not achieve. That, frankly, is a sign of incompetence on the

part of the government in the promotion of this legislation. The government wants a quick fix to get the legislation through Parliament and then celebrate its passage, never mind the consequences. It will look at the legislation in five years to see whether there is a problem that needs to be fixed up but, in the meantime, who cares if lessors are taken advantage of? Who cares whether they can support the mortgage on their investment for the future for themselves and their families? It does not matter. Who cares whether there is vagueness as a basis for the termination or alteration of arrangements? They can bear the cost of it; the government is not going to look at it.

I will move on to some specifics. The report refers to proposed section 17B, which states that "family violence is a fundamental violation of human rights". I do not know why there needs to be any mention of that in a bill that deals with contractual relationships. The policy and motivations are in the second reading speech, but apparently we have a "fundamental" violation rather than simply a violation of human rights. Apparently, harm to people is not good enough as a basis for a policy—it has to be attached to a human rights framework of some sort. I do not understand it, but perhaps I am old-fashioned. I would have thought we would look at a mischief and try to fix it. If it is an obvious mischief, we do not need to attach it to a human rights framework or call it a fundamental violation of something—it is just a bad thing. If it is obviously bad, we try to work out a solution. Nowadays it appears that, as legislators, we need to talk about fundamental violations of human rights. There is a beauty later on, at paragraph 7.51, concerning the Commissioner for Children and Young People, who —

> … emphasised that when safety and stability of accommodation are prioritised, this in turn promotes and supports the right of children to be safe.

It does not support the safety of children—that is too trivial. What we need to say is that it supports their right to be safe. Again, there must be some kind of material difference in it, but I would have thought that simply the safety of children would be a priority, never mind whether they have a right to it or not, but I suppose that is the trend nowadays.

There is nothing about the fundamental violation of human rights in the objects of the act, which was pointed out by the committee. We have asked the minister to explain this. I note Hon Rick Mazza has foreshadowed this by seeking to remove the word "fundamental" from the bill. It seems to me that this will not affect the policy of the bill or its efficacy or operation in the slightest. I would have thought that we would remove something as pointless as that from the legislation for simply an aesthetic reason. I cannot see that it makes any material difference to the bill's function or what it is intended to achieve—it is simply fluff.

Hon Nick Goiran: One would hope that the government would support it.

Hon MICHAEL MISCHIN: I hope so. It just seems to be a pointless addition to something that is blindingly obvious. I remember reading in a submission sent to me a couple of years ago that murder is a fundamental violation of the human rights of the victim. I thought, "Well, it's a little more basic than that!" If it is necessary to wrap human rights around things like that in order to understand them, perhaps society is beyond hope. We do not need that sort of padding around something that ought to be self-evident. Paragraph 7.30 deals with joint and several liability —

> If an order or determination is made against the perpetrator tenant, proposed section 17B(5)(b) effectively shifts responsibility for pursuing the debt arising from damage or loss caused by family violence in current tenancy agreements onto lessors and their insurers. This did not exist before and may affect lessors' insurance premiums.

I would think that it might. Is a solution proposed? No. It continues at paragraph 7.31 —

> The Committee is of the view that:
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> - shifting responsibility is an additional financial burden on lessors

I again emphasise that lessors are the ones who are not in control of other people's lives and are not allowed to do their due diligence to see whether prospective tenants can be relied upon to stay in the contractual relationship, so it is an additional financial burden on them. It goes on to say —

> - arguably, proposed section 17B(5)(b) does not give sufficient regard to the rights of lessors.

I would have thought that is patently obvious. Is the government going to do anything about it? No. The committee suggests a review, which I entirely support, if that is the best we can do. I note the government is conceding a review. I note that Hon Rick Mazza is proposing some review clauses. I foreshadow that I am considering making some tweaks to those as well, to ensure that they achieve their end. But if that is the best the government can do with this legislation, it is pretty sorry stuff. It knows there are potential problems, but because it justifies it as being unashamedly focused on the benefits of one group against another, who are required to carry the burden, that is okay. It thinks that is a justification. That is sad stuff. The committee goes on to say in paragraph 7.35 that the Insurance Council of Australia has indicated that work has not yet commenced on a new code of conduct

regarding insurance policies, which would enable lessors to take out some insurance on this sort of problem. It has not commenced on a new code. It continues —

> Once it is completed, ICA expects Member insurers to have developed a family violence policy in their policy documents within six months of the publication of the new Code.

That is comforting! If the law is changed now, lessors will not have insurance that can cover the prospect that someone might abandon their premises and leave the lessor financially short, using the pretext of family violence—hopefully actual family violence, if that is going to be the reason advanced. There does not seem to be any attempt to ensure veracity of that, other than allowing doctors and social workers to sign a statutory declaration. We are told that they are independent third parties.

Perhaps I can jump to that for a moment. Perhaps the government can explain to me how, in the absence of a court making these sorts of adjudications, which is difficult as it is, having regard to all the indicia under the Restraining Orders Act as to what may—I emphasise "may"—constitute family violence, a doctor or a social worker is somehow an independent third party who has the wisdom of a judicial officer and the experience of a police officer to be able to say, "Yes, I accept that you are a victim of family violence or may be exposed to it. Therefore, I'm going to sign a certificate and you're out of your lease." Without any reflection on the ethics of the Australian Medical Association and the like, members should put themselves in the position of a medical practitioner who is approached by someone who says, "My partner's beating me up and I'm in fear. Can you sign a certificate for me so that I can get out of my lease?" The medical practitioner has nothing to work on other than that. Are they going to say no and then run the risk of harm being done and carrying the responsibility for that, or are they going to sign the certificate, because who cares about the lessor? Yet, this is what the government is proposing. What is more, the bill proposes that other people could be prescribed from time to time. These are decisions that courts wrestle with. Police officers are faced with these sorts of things all the time and they have trouble determining whether someone has been genuinely exposed to family violence, and what is actually meant by being exposed to family violence and the like. It is all one thing to have a violence restraining order where a court has to balance these considerations, give reasons and work through them and have experience of doing that, but we are allowing doctors, social workers and others to make the decisions that alter people's contractual obligations in favour of their patient, their client, the person they are treating. Are they meant to be independent third parties? I doubt it; not by any standard. If a doctor is treating a patient, they are hardly independent. If a social worker has charge of someone who has problems—it could be all sorts of problems—are they truly independent if that person also makes an allegation that they are having a problem paying their rent? They ask how that problem has arisen and the person will say, "I'm just having trouble. My partner's not paying the rent." They would respond, "Okay. Look, there's no way out of it that I can see unless you're suffering from potential family violence." The client responds, "Oh yeah, there's a bit of that, too." That is sufficient for a certificate. Can the lessor test that in due course? No, because the legislation says they cannot. But once again we have the government taking a particular position and claiming this will be a cure for all sorts of problems.

There are comments in paragraph 7.44 about the use of the word "victimisation". There are comments in paragraph 7.45 about proposed section 17B(5)(c)—clause 5 is odd. According to the clause, one of the factors for any determination or order by a court is —

> (c) the need to maximise the safety of persons who have experienced family violence by reducing any financial burden arising from the family violence;

Even the committee says that those are two thematically dissimilar things. I do not necessarily see the connection; it does not seem to be drawn. If the government is really saying that there is a need to maximise the safety of persons who have experienced family violence when a financial burden affects their safety, I can understand the causal connection, but there is not one in the way that the proposed paragraph is framed. It just assumes that financial burden and family violence are correlative and have a causal connection; perhaps that can be explained. The explanation that the committee gleaned about what is meant does not accord with what the proposed paragraph currently states. The committee is satisfied with the response as the rationale—I can understand that—but the proposed paragraph does not reflect what it is trying to achieve because that causal link, as a touchstone, is absent.

Proposed section 17B(5)(e) refers to "the need to protect the wellbeing of children". Presumably that is the tenant's dependent children, or is it children generally around the neighbourhood? Once again, there is a lack of precision on what the government is after. I have already mentioned supporting the right of children to be safe, as opposed to supporting the safety of children.

The committee recommended some amendments, which we support. Finding 3 talks about developing an infringement notice in clause 10, or proposed section 45(3), for the $5 000 penalty, as opposed to prosecution for an offence. I am interested in the consequences of that. Let us say a tenant fails to comply with their obligations under the legislation because they are true victims of family violence. Is it seriously being suggested that the government

will prosecute them? What will the government do if it succeeds in that prosecution? Will it demand the payment of a fine? I find that difficult to believe. I think it is all show and no substance. Will the government require the tenant to fulfil work development orders if they cannot come to a time-to-pay arrangement? Will the government put them in prison in default of payment of the fine? In reality, even in genuine cases, it is an illusory punishment and sanction.

Clause 12 is discussed in paragraph 7.68 of the committee's report. Current section 47 is titled "Right of tenant to affix and remove fixtures etc", and proposed section 47(4) imposes a term on every residential tenancy agreement. From whenever the legislation is passed—never mind what was negotiated as part of the lease contract and never mind the question of insurance on the part of the lessor or the type of premises involved, whether it is a brand-new house or it is heritage-listed or any other obligations by the lessor; never mind about any of that—the lessor will be deemed to have agreed to, as part of their contract and retrospectively, something that of course they might have reconsidered if they had known about this contractual term before they signed the lease with their tenant. But that is not a problem for the government, given that it is being imposed by legislation. Proposed section 47(4) states —

> It is a term of every residential tenancy agreement that a tenant may affix any prescribed fixture, or make any prescribed renovation, alteration or addition to the premises … necessary to prevent entry onto the premises of a person —
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> (a) after the termination of the person's interest in a residential tenancy agreement under section 60(1)(bc); or
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> (b) in any event, if it is necessary to prevent the commission of family violence that the tenant suspects, on reasonable grounds, is likely to be committed by the person against the tenant or a dependant of the tenant.

A little while ago we were talking about children who do not have to be dependent children—presumably "dependent" in this case is broad—but at least there is some touchstone about the relationship between the parties involved. That is important, because if there is any doubt about how this legislation is to be applied, the burden is being thrown in the first instance onto the lessor. This is not a case of dealing with it on a case-by-case basis and letting the courts decide. Lessors can end up in serious trouble if they do not know what the government means by some of these provisions. It is not a problem for government—it has taken a unbiasedly victim-based approach to these sorts of things—but it could be for the unfortunate lessor and also for the tenant, if the tenant does not know the metes and bounds of their entitlements. But we are left with something as vague as "in any event", if there is a subjective suspicion on reasonable grounds of a likelihood of something happening. We have seen that there is a very broad range of indicia of what may constitute family violence under the Restraining Orders Act—"may"—and that will ultimately be decided by a court; now it will be decided by private citizens.

Among the allowed security upgrades are security alarms, closed-circuit television cameras, window locks, screens and/or shutters, security screens on doors, exterior lights, changes to external gate locks, and the pruning of shrubs and trees abutting the agreed premises. The committee considered whether that should be in the bill or the regulations. I take the view that if we are going to be mucking around with people's property in this fashion, it should be in the bill. At least we would know what the government has in mind from time to time, and not have some bureaucrat deciding to extend the scope of the regulations. It is said that these things can be made good. The tenant will be obligated to make good these things, assuming they can afford or are able to do it, are minded to do it and that the landlord can track them down after they have perhaps left. I look forward to having this explained. Let us say the lessor has grown a hedge around the house and it is one of its selling points; it is one of the reasons the property was attractive to lessees. Say the tenant suspects, on reasonable grounds, that it is likely that someone might be hiding in there to commit family violence on them, and chops the hedge down or prunes it down to half its height so that it can be seen over and chops holes in it so no-one can hide behind it. How does one make good the pruning of shrubs and trees? I have no doubt that the government will be able to explain, because I am sure its members have been far-sighted enough to consider this problem. Of course, that assumes it will be just in the legislation and not tinkered with and expanded in some fashion in regulations down the track. How does one make good landscaping? How does one make good a garden that someone has decided to chop up? Will the bond, which is limited under the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018, be sufficient to cover that? Has the government considered whether any greater bond is required, or some other security? That is not to say I do not have sympathy for people who are in extremis under financial burden and who are true victims of family violence, but a very low threshold is provided for in this legislation—very low indeed. It may be that the government is not interested in the potential for misuse or abuse until the review comes up in five years, but it really needs to address these issues and give some comfort to people. I would certainly think twice about whether I would rent out properties and to whom after this legislation is passed. I do not know what sort of people I will allow into my home, which I might intend to move back into once I come back from duty in the country if I am a police officer or from overseas, and I am not allowed to find out. I am also not allowed or able to insure against it. Proposed section 56A tells us that I am not allowed to find out about it. It states —

> A person must not refuse, or cause any person to refuse, to grant a tenancy to any person on the ground that the person —
>
> (a) has been or might be subjected or exposed to family violence; or

We are told about how vulnerable women are and I accept all of that. Any woman may be subjected or exposed to, or threatened by, family violence. As I recall, and perhaps the minister will be able to correct me if I have misunderstood this, but "exposed to" in the Restraining Orders Act includes being able to see an act. That could be anyone. Proposed section 56A continues —

> (b) has been convicted of a charge relating to family violence.

I hope we can understand how broad "relating to family violence" might be. In short, obligations are being put on lessors with no ability to guard against them, all for the greater good. If this does reduce risks in the case of family violence, I would be anxious to hear about it and I would applaud it, but to my mind, there has not been sufficient rigour around the crafting of this legislation to be able to say so. The consequences to others, who are not able to control the situation, are being imposed by government, even though it should be looking at these problems and finding an appropriate balance. We are told that it will be up to the courts to determine damages to premises, but the courts are not making decisions in many of these cases.

I have already touched on the idea of independent third party evidence. I struggle to see how a social worker with knowledge of someone and who deals with that person to assist them is truly an independent third party. I struggle to see how a doctor who is treating a person as a patient for medical conditions can truly be an independent third party, or how they have the expertise to be able to assess objectively that someone is or is not able to fill the criteria mentioned in the bill, given that there are references to several other statutes.

At paragraph 7.100 of the committee's report, we are told, by way of comfort, that some professionals have a code of conduct. Again, we do not know what the code of conduct is or how it relates to the matters and issues that they have to decide. There is also reference in the report to the potential for doctor shopping, but if it is all left up to the professional judgement of the practitioners and others involved, who, in reality, will err on the side of disbelief in a case like this? I will come to the end of the committee's report, but I will refer to another example in paragraphs 7.144 and 7.145. Proposed section 71AD is introduced, which is headed, "Rights of co-tenants after notice under s.71AB". That is the termination notice. It requires a lessor to give a copy of the notice that is received by the lessor to each co-tenant under the residential tenancy agreement within seven days after receiving the notice. The co-tenant may, not less than seven days after receiving the copy of notice, give notice of termination of the co-tenant's interest in the residential tenancy agreement. Perhaps some explanation should be provided as to how that is meant to work, but it seems that the lessor might end up with no-one in the premises that they have let. The committee report helpfully states —

> The Committee considered whether the proposed section will impose unfair obligations that do not currently exist, —

I would have thought that is pretty patent —

> on non-perpetrator lessors and co-tenants and recommends that this be assessed during the proposed five year statutory review.

Thank you very much! That is of great assistance to those whose rights may be affected and who have a financial burden imposed on them that the committee recognises may be unfair. They will have to put up with it for five years and hope that, at the end of it, the government does something to fix it. To my mind, that is one of the inadequacies of the committee's work. As I said, I am reluctant to condemn the committee but I am concerned that this was all because of the rushed nature and very short time frame in which the committee has had to consider this important issue. It is all because the government could not address these problems in advance, and allowed this bill to languish for several months in this place without any action being taken, any urgency being applied, or any concern about getting it through at a particular time, and certainly without any interest to see whether it could be improved. It is wonderful that the Parliament has identified that there may be unfair consequences as a result of a clause in this bill to the lessors and co-tenants who are blameless, but as long as it is looked at some time in the next five years, the government is not going to do anything about it. Brilliant!

I have a number of questions about the content of the bill, which we will work through, because I expect we will go into Committee of the Whole to deal with a number of amendments. I indicate that I have an enormous amount of sympathy for the amendments that have been proposed. They remove some unnecessary terminology and refine some terminology. Some of the amendments arise out of the recommendations, findings or observations of the committee report. Some are very important, such as the review of the various divisions that will impose these new obligations to see how they work. I think it is very unfortunate that these sorts of things are not being explored before the government rushes into making this law, and affecting the potential viability of people's investments in the case of lessors. Perhaps—who knows?—it will make it a crippling burden on them. People who cannot make

a difference are having this problem imposed on them and are being asked to bear the burden of a social ill on their own. I hope that the government can provide evidence that will support that this is not simply cosmetic. It may actually be relevant, but we do not have any figures to show the extent of the risk and whether it can be addressed in this fashion. Hopefully, it will all be exposed by the review that takes place, because I propose to support the review provisions on the supplementary notice paper.

I have grave reservations about the way things have been framed in this legislation. I commend the committee for the work that it managed to do. I am sorry that there are deficiencies in it. As indicated, we support the legislation. At the end of the day, it will be the government's responsibility if things go awry. If the government is insistent that this is the only way to go and that this is the best-crafted piece of legislation that it can present to address this problem, we will take it at its word. However, I have doubts about it, and it can and should be improved. On that note, I look forward to dealing with the matter in due course in the Committee of the Whole House stage and hearing the government's explanations of elements of the legislation that I have drawn attention to.

HON RICK MAZZA (Agricultural) [4.10 pm]: I indicate that I will be the lead speaker for the Shooters, Fishers and Farmers Party. The Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 will amend the Residential Tenancies Act 1987 and the Residential Parks (Long-stay Tenants) Act 2006 to provide for termination of tenant's interests on the grounds of domestic violence and for related matters.

The bill was sent to the Standing Committee on Legislation, which produced its thirty-eighth report last month. The report had three findings and 11 recommendations. I am very grateful to have had the opportunity to be a substitute member for Hon Colin de Grussa for the duration of that inquiry.

It is very disturbing that each week we hear that an escalating number of calls come into the police and other support agencies and that domestic violence is increasing. Of course, domestic or family violence is nothing new. Unfortunately, it has been with us since time immemorial. In times gone by, it was characterised by the drunken husband who would come home and beat his wife and, on occasion, come home and beat his wife and kids. Often, a mostly blind eye was turned to that as being none of anybody else's business. However, attitudes have changed and family violence is no longer tolerated in our community. Family violence has morphed into no longer only domestic violence between partners in a biblical sense, but also people having problems with adult children who are still at home and are affected by drugs and alcohol and substance abuse, which has caused enormous problems within families. Everyone in this chamber wants to see measures put in place that circumvent family violence in order to keep people safe. To me, this bill seems like a very small bandaid on a large and complex problem.

Drug and alcohol abuse fuels violent antisocial behaviour, which is only magnified within the home. Samara McPhedran, senior research fellow with the violence research and prevention program at Griffith University in Queensland, was reported in *The Sydney Morning Herald* of 19 July 2018 as saying —

> "… don't wait until people are engaged in violent behaviours, and recognise that this behaviour often has its roots in family background and childhood experiences".
>
> "There are measures we can put in place around early intervention which may more effectively prevent young men from becoming involved with crime and violence," …

I think that is a very important statement. A holistic approach is needed to address family violence and break the cycle of people abusing drugs and alcohol and committing family violence. Instead of addressing the root cause of family violence, this government is focusing pretty much on the end result, as was raised by Hon Dr Steve Thomas last night. He referred to Hon Charles Smith's comments a few weeks ago about his experience as a former police officer. On many occasions he had to deal with victims of family violence. Once someone has made the brave decision to leave, it is about getting them away and to safe places such as refuges and shelters. I think there needs to be a lot more done about that as well. This bill is a perfect example of the government focusing on the cure rather than prevention, and I question how effective this bill will be once implemented. Amendments are on the notice paper regarding reviews, which will hopefully get up so we will be able to see how this bill operates over the next few years.

Debate interrupted, pursuant to standing orders.

[Continued on page 8777.]

Sitting suspended from 4.15 to 4.30 pm