

Hon Norman Moore; Hon Kate Doust; Hon Giz Watson; Hon Jon Ford; Hon Dr Sally Talbot; Hon Philip Gardiner; Hon Matt Benson-Lidholm; Hon Ljiljana Ravlich; Hon Ed Dermer; Hon Adele Farina; Hon Sue Ellery; Hon Ken Travers; Hon Michael Mischin

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**CRIMINAL LAW AMENDMENT (OUT-OF-CONTROL GATHERINGS) BILL 2012**

*Discharge of Order and Referral to Standing Committee on Legislation — Motion*

Resumed from 15 November on the following motion moved by Hon Alison Xamon —

That order of the day 14, Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012, be discharged and the bill be referred to the Standing Committee on Legislation for consideration and report no later than April 2013.

**HON NORMAN MOORE (Mining and Pastoral — Leader of the House)** [10.50 am]: On behalf of the government I indicate that we will not support this referral of the Criminal Law Amendment (Out-of-Control Gatherings) Bill to the Standing Committee on Legislation. Clearly the bill represents the view of the government and it is the government's desire to have this matter resolved before the Parliament rises, and we are very keen for the house to make its judgement on this legislation. This motion would see it deferred until after the election and it is our view that that is not appropriate on a matter of this particular substance. If the Greens want to make it an election issue, there is one coming up very shortly that they can use. If they want to take the view that juveniles who throw rocks at police are simply misunderstood, they can take that point to the community and argue it in the election environment. However, it is the government's view that this would defer a decision on an important piece of legislation and so we will not support the referral, and we look forward to the house making its own judgement on this legislation in due course.

**HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition)** [10.51 am]: The opposition will not support the motion to refer this Criminal Law Amendment (Out-of-Control Gatherings) Bill to the Standing Committee on Legislation moved by Hon Alison Xamon. Although we will not oppose this bill, we have some serious concerns about some aspects of it. There are still a number of members who want to put their views on this legislation and we are of the view that this bill can be managed through this house. The opposition will certainly apply appropriate scrutiny to this legislation when we get into the Committee of the Whole stage at some time today. We understand that given that we are going into an election, there is some difficulty. Normally, with this type of bill, and if we were in a different part of the year's cycle, perhaps a bit earlier, we might have given serious consideration to the proposal from Hon Alison Xamon. Unfortunately, given that we are in our last sitting week, the opposition is of the view that we can actually extract from the government responses to all of the issues that we intend to canvass, and, hopefully, given that there are some proposed amendments on the notice paper, the government might see its way through to giving appropriate consideration to those amendments so that we can deal with the bill in this chamber rather than have to send it off to a committee. As we all know, at some point the government will prorogue the Parliament and unfortunately any good work done by that committee would simply disappear and the government's intention to try to resolve these matters currently causing concern in the community would fall away and would not be revisited until a new government was in place, perhaps in the new year. Therefore, on this occasion we will not support the referral of this bill to a committee.

**HON GIZ WATSON (North Metropolitan)** [10.53 am]: Hon Alison Xamon is unfortunately out of the house on urgent parliamentary business, so I add a few comments to this motion. The reason the Greens suggest that this Criminal Law Amendment (Out-of-Control Gatherings) Bill be referred to the Standing Committee on Legislation for a proper investigation is the fact that we have not heard from some significant stakeholders on the issues this bill addresses—those are the Commissioner for Children and Young People, the youth law sector and youth advocacy groups. This bill directly affects those groups. Yes, we can debate it in this house; yes, we can push this through because a case has been made that this is urgent. My point is that I think this case is largely overstated. This is a highly political piece of legislation and we do not accept the argument that it has to be passed before Christmas. It has come up and it has a certain amount of momentum that will see the majority of the members in this Parliament debate this piece of legislation without the advantage of the advice from those sorts of organisations that are closer to this particular issue than any of us are—we have seen it time and time again. We have a great record in this Parliament of using our standing committees to produce better legislation to ensure that unintended consequences do not arise from legislation. Standing committees in this Parliament usually produce consensus reports, even on contentious matters and particularly on matters around criminal law. These are the sorts of issues that the public expects the Parliament to take very seriously. We are talking about serious penalties; we are talking about serious consequences, particularly for young people. To simply think we can deal with this matter, which has only really come up for our assessment in the last month or two, without the benefit of expert advice is problematic. It is indicative that the other parties are happy or willing to ignore the resources available in the Parliament to do a better job for the community. For those reasons I will certainly support the referral of the bill to the Standing Committee on Legislation; and, if this motion is not successful, I

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look forward to the next Parliament where we might actually have a functional standing committee on legislation.

**HON JON FORD (Mining and Pastoral)** [10.56 am]: I was not going to stand until Hon Giz Watson had a little swipe at us. That is fair enough; that is what the Parliament is. But I make this point: the reason that we do not support the referral of the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012 to the Standing Committee on Legislation is that this is the last week of Parliament. In fact, it might be the last week of this Parliament as far as sitting goes. The fact of the matter is that after the Parliament rises it is up to the government to decide whether the Parliament should prorogue or not, so no matter what this house decides, the house could be prorogued and then the committee could not meet. Even if the committee was to meet up until the writs are issued, because we know when the election will be, if they are issued, the Parliament will be prorogued and the committee will cease in its ability to carry on its investigation. Notwithstanding the timing of the bill, where it has come in and the debate, this is a political stunt. We will have a debate, and that is fair enough, but there is absolutely no point in referring this bill to a committee because the committee will not be able to finish the inquiry and anybody who suggests otherwise is trying to mislead the public.

Question put and a division taken with the following result —

Ayes (3)

Hon Robin Chapple

Hon Giz Watson

Hon Lynn MacLaren (*Teller*)

Noes (29)

Hon Liz Behjat

Hon Wendy Duncan

Hon Nigel Hallett

Hon Ljiljanna Ravlich

Hon Matt Benson-Lidholm

Hon Phil Edman

Hon Alyssa Hayden

Hon Sally Talbot

Hon Helen Bullock

Hon Sue Ellery

Hon Col Holt

Hon Ken Travers

Hon Jim Chown

Hon Brian Ellis

Hon Robyn McSweeney

Hon Max Trenorden

Hon Peter Collier

Hon Adele Farina

Hon Michael Mischin

Hon Ken Baston (*Teller*)

Hon Mia Davies

Hon Jon Ford

Hon Norman Moore

Hon Ed Dermer

Hon Philip Gardiner

Hon Helen Morton

Hon Kate Doust

Hon Nick Goiran

Hon Simon O'Brien

Question thus negatived.

*Second Reading Resumed*

Resumed from 15 November.

**HON SALLY TALBOT (South West)** [11.02 am]: I will preface my remarks by making a few comments about the reasons for this debate today. As honourable members recall, when we rose from the previous weeks of sitting we had already had a considerable amount of debate on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012, and the Labor opposition was on the public record as having said it would not vote against the bill. Nevertheless, we feel it is very important to raise our substantive concerns in the Parliament so that those concerns can be addressed in some detail by the government.

I refer honourable members who might have some lack of clarity about exactly what we are doing—I am referring specifically to members of the government—to the comments made by the Youth Affairs Council of Western Australia after the debate on this bill in the other place. A 19 October media release from YACWA states —

What makes the bill's passage yesterday even more distressing is the fact that some members raised important concerns about the bill that were not fully explored or adequately addressed by the minister,

We in this chamber have a different sort of reputation for the scrutiny of legislation, and my belief is that we can actually make some headway in introducing some clarity around the exact way these mechanisms will work when the government rolls them out. That is what we will attempt to do during this debate. So the onus really is on the minister with the carriage of the bill in this place, who of course is the Attorney General, who has a better understanding than most people about the way the law works in practice, and I am asking the Attorney General to ensure that, both in his second reading debate response and when we move into committee, he takes the concerns of WA Labor very seriously and helps us to have recorded on the public record exactly what government intends the outcomes of this bill to be.

I can express my concerns about this bill in a very straightforward question to the government: will these measures increase the number of young people coming into contact with the juvenile justice system? The government has been pretty good at grabbing the headlines with this bill and other measures of a similar nature it has put through in the past four years. The headlines have all been about out-of-control parties, riots in the suburbs and hundreds of mainly young people gathering—the name of the bill is the Criminal Law Amendment

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(Out-of-Control Gatherings) Bill 2012—and rampaging out of control. But I ask the government this very simple question: what does the government expect to be the results of these measures? Will more young people be brought into the juvenile justice system? I put it to members of the government that there are only two ways to answer that question; it is a simple yes or no response. If the answer is no—that the government is not expecting more young people to come into contact with the juvenile justice system—then I ask the government: how will it actually ensure that its measures do not capture more young people? How will it ensure that the measures it is putting in place with this bill will actually divert young people away from contact with the justice system?

When this bill was originally introduced and public commentary about the bill started, the government said it was going to take a “holistic approach”, that there would be a focus on education, that clearly the mismanagement of social media was one of the factors that was exacerbating the problem, and that we should be looking at a whole range of things like privacy concerns in terms of invitations going astray and things entering the public realm that were never intended to. I have been through the bill, the explanatory memorandum and all the documentation the government has put out around this bill but I can find no evidence of these measures being in place. I can see no evidence of anything that will go out to the community and say to a young person, “Don’t do this—don’t undertake this particular mode of behaviour—because, if you do, the consequences will be this.” All I can see is a kind of big stick approach that says, “We’re going to round up young people who are rioting and who are behaving in an out-of-control manner, and we are going to deal with them.” As far as I can see, the bill is just the big stick approach; I cannot see any carrots around behaving in a more responsible way, and I cannot see any help being extended to young people to avoid being caught up in some kind of police action that, at least for a significant proportion of young people, will inevitably roll on into court appearances and intervention by juvenile justice officers. So that is what I am asking.

If the government says, “No, we’re not expecting more young people to come into contact with the juvenile justice system”, I want to see the evidence that some kind of diversionary measures have been put into place, because I cannot see them. That is my first question to the minister. If the government responds, “Yes, we are expecting more young people to come into contact with the juvenile justice system”, I ask for the justification for bringing that about with no measures for diversion and no measures to bring about changing the behaviour of young people. I put it to honourable members that, for the vast majority of young people, contact with the juvenile justice system is never positive. We have heard members of this chamber tell stories about encounters they had when they were young with some representative of the justice system, whether it was the local cop, a social worker or a teacher at school, who gave them what might be called a short, sharp shock that pulled them up and made them change their behaviour. But those stories are far outweighed by the awful accounts of children who get caught up in some kind of illegal activity and get caught up by rules and regulations and who are then put through a system and spat out at the other end much worse off than they were before they went in. A couple of weeks ago we debated in this house a motion moved by me about the government getting its priorities wrong for young people. In the context of that debate, I read into *Hansard* the story of a young man who had taken exactly that journey and had been spat out at the end of it. It was a tragic story; it was a shocking story. Not a single member of this Parliament would have heard that story and thought to themselves, “That’s okay; that’s a sign that the system works.” It does not work in the majority of cases. Yet this bill looks to me as though it is specifically engineered so that more young people will come into contact with law enforcement. I put it to honourable members that that is almost always a negative experience for young people; and, if they disagree with me, give me the evidence that that is the case. If they are putting in place new measures to help young people, such as the young man whose story I read into *Hansard* a couple of weeks ago, tell us what they are, because they have not told us thus far. This bill has already travelled through the other place and got here, and still they have not been able to account for that particular aspect of the problem.

As has been the case with so many other bills that the government has brought into this place in the last four years, we find a very problematic kernel at the heart of the bill that the government has presented us with. The core of the problem with this bill is that, once again, in a way that is similar to what happened when we debated the Prohibited Behaviour Orders Bill, we find that we have a definition of “antisocial” to grapple with. The reason I want to focus on the definition of “antisocial” is, firstly, for the obvious reason that the definition of “antisocial” is highly subjective. I am not saying that it is beyond us to arrive at a definition on which we can all agree, and I heartily concur with anybody who wants to point to specific instances of behaviour that have occurred as part of those developments over the last year or so when these out-of-control gatherings have grabbed headlines. Clearly, some behaviour is causing the problems at those gatherings that none of us would want to condone, but—here is the point of what I am saying—we already have measures in place to deal with antisocial behaviour when it trips the boundary into being criminal behaviour.

**Hon Michael Mischin:** So oppose the bill.

Hon Norman Moore; Hon Kate Doust; Hon Giz Watson; Hon Jon Ford; Hon Dr Sally Talbot; Hon Philip Gardiner; Hon Matt Benson-Lidholm; Hon Ljiljana Ravlich; Hon Ed Dermer; Hon Adele Farina; Hon Sue Ellery; Hon Ken Travers; Hon Michael Mischin

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**Hon Ken Travers:** So you want us to oppose it.

**Hon Michael Mischin:** No. I'm saying that if you think the bill is unnecessary, why are you taking this particular attitude?

**Hon SALLY TALBOT:** There is one thing that puzzles me more about the government's intentions with this bill, and that is the reaction of Hon Michael Mischin, the Attorney General, who has carriage of this bill, who is a minister of the Crown and who has every forum of the state at his disposal, yet throughout this debate he has sat in his seat in this chamber and interjected on members on this side of the house who have tried to raise legitimate concerns. I prefaced my comments by saying that this bill has been through the other place and has come out the other end with major stakeholders—people who are working at the coalface of juvenile justice and youth affairs in this state—having serious concerns about the quality of the government's responses to the concerns that WA Labor is raising. Now the Attorney General is interjecting on me. I am making reasonable comments that I am asking the Attorney General to respond to. The Attorney General will have an indefinite amount of time to respond to everything that we on this side of the house have raised, yet he feels entitled to do it by way of interjection. I will not take any more of the Attorney General's interjections because I have limited time. Unlike a minister of the Crown, I have limited time, so I will get through this material that I want to place on the record.

Let me start by talking about some of the processes that the government has been through to get us to this stage. I know that when legislation of this kind is introduced, some things are easy to do and some things are hard to do. I would have thought that one of the more straightforward things for a government to do would be to consult with stakeholders—the people who are actually working with the groups of people who are most likely to be affected by a piece of legislation. Yet we are told—the Attorney General may want to tell me that I am wrong, and I would be delighted if that is the case—that there has been no consultation with the youth sector. Why would the government not consult with groups such as the Youth Affairs Council of Western Australia? We are fortunate in this state to have an umbrella body. We have YACs in a number of different sectors. Wearing my other portfolio hat, we have the Conservation Council of Western Australia, which functions as an umbrella body. When there is an umbrella body, consultation is not that complicated. Yet I have a letter dated 6 November—only a couple of weeks ago—from the Youth Affairs Council that states —

... YACWA has not been given the opportunity to provide any feedback to the Minister for Police, ... on this Bill. We have written to the Minister in a letter dated 12 OCTOBER 2012 but we are yet to receive a response.

**Hon Robyn McSweeney** interjected.

**Hon SALLY TALBOT:** Why has the government not involved the umbrella body that represents key stakeholders in this area? It simply does not make sense. YACWA has been trying to raise issues with the government, and because the government will not respond, it devolves on to the opposition to raise these issues.

**Hon Robyn McSweeney** interjected.

**Hon SALLY TALBOT:** Now another minister is interjecting on me, Mr President. I do not know what is wrong with these people. They have their own fora in which they can have their say for as long as they like.

**The PRESIDENT:** Order, members! It must be the approaching festive season. Members know that interjections are not appropriate, and, hopefully, that rule will apply right through the week.

**Hon SALLY TALBOT:** It devolves on to WA Labor to raise some of these issues in Parliament. I guess that there are three issues. The first is: where is the investment in community infrastructure? I again ask the Attorney General: if it is there and we have missed it, please enlighten us later in the debate. YACWA has made the point very eloquently, and Hon Kate Doust devoted a large part of her second reading contribution to the fact, that when children get to the age of about 14 or 15 to 18 —

**Hon Kate Doust:** Anyone over the age of eight, really.

**Hon SALLY TALBOT:** Hon Kate Doust says “anyone over the age of eight”. There is a certain critical age below the age of 18 when young people's opportunities for social interaction diminish exponentially. Once they reach the age of 18, they can have entree to clubs and pubs and a lot of places because they are classified as adults. But while they are classified as children, they go through a stage when they want to socialise. We all remember when we were around the age of 15, 16 or 17 when we felt like an adult—a grown-up. Young people want to go out and do grown-up things, but they are prohibited from entering a number of adult venues, so they make their own fun as they go along. After looking at some of those shocking pictures of kids clearly behaving in a way that, if it is not criminal, is very close to it—hurling abuse and rocks and all sorts of stuff—why would

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the government not be looking first of all at ways to divert some of that energy into something that is not as damaging or as high risk to both the general community and those individual children? I point out something here that I feel the government is missing. Both Hon Michael Mischin, at an earlier stage in the debate when he was interjecting—not on me, but in previous days—and Hon Norman Moore, today, made exactly the same point about kids throwing rocks. Both ministers talked specifically about kids throwing rocks and asked why we on this side of the house would find that form of behaviour defensible. The simple answer is that we do not; we do not find any sort of rock throwing, whether it is literal or metaphorical, acceptable.

But the point of this bill—this is one of the questions that I am raising with the government—is that clearly we see the potential for kids who are not throwing rocks to be caught up in the measures that are being introduced in this bill. Kids might find themselves in a place by accident, because they have gone along with the rest of the crowd and they were not aware that they were going to end up in a place that would be deemed an out-of-control gathering, or they might have gone to a gathering assuming that it was an in-control gathering, and all of a sudden events might have overtaken them. There has never been any suggestion in the commentary both in the media and in the Parliament that every child who is found at one of these events is culpable. The government itself has admitted that. Yet we know from reading the fine print of the explanatory memorandum and from looking at the bill itself that clearly children who are not involved in illegal activity will be caught up by the measures in this bill. Where are the resources that the government is putting into the building of community infrastructure so that children will have alternatives to just hanging around the streets and ending up in trouble?

The second point I want to raise is education measures. I cannot remember when all this started and when we had the first event that was called an out-of-control party. But my recollection is that five years ago, they were not happening. I am not sure that they were happening even two years ago. There were some isolated outbreaks. There was the odd Australia Day “drunk up” somewhere. But this phenomenon of out-of-control parties is relatively recent. When it started to grab the headlines, there was a lot of talk. In fact, I would say that most of the commentary was around the fact that kids were not managing their social media very well. Kids were posting parties on Facebook, but they did not have their privacy settings sorted out, so other people were able to log onto their Facebook page and see what was happening, and then circumstances would rollercoaster out of control. So a lot of the talk at the beginning was about how can we help young people manage their social media interactions. This is not rocket science. This is not a brand-new Western Australian discovery that we do not have the expertise or the resources to cope with. There were the shocking riots in the United Kingdom at around the same time that all of this was starting to happen in Western Australia. It has now been conclusively established that the impression at the time that the whole thing was being driven by social media was absolutely accurate. That was exactly what was behind the problem.

Academic research on this issue has been around for some time. Educators and youth leaders have been talking for some time about the need for the government to get its head around this problem and start engaging in some consultation with the youth sector about what these measures should consist of. That leads me to my third point, which is that, once again, just as we have seen in the mental health field when the government was putting its Mental Health Bill together, and just as we have seen with the issue of homelessness and a variety of other pressing social issues, the government is not bothering to talk to young people about the solution. It just does not make sense that the government would exclude that whole field of expertise. This morning, Hon Giz Watson talked about the role of the Commissioner for Children and Young People. The government has had no engagement with the young people’s commissioner on this issue. Why would that be the case? I am not even suggesting that the government needs to take its lead from that sector. But surely it is in the interests of all of us that the concerns, experiences and understanding of this sector about how we can move towards resolving these problems is incorporated into the heart of the legislation.

The one element of this debate that the Attorney General finds particularly irritating is when we on this side of the house refer to the fact that there are already measures in place to deal with criminal behaviour. All I will say to the government is that if it does not want to listen to the Labor opposition, it does not have to; it can listen to some of its own senior law enforcement officers. That brings me to the Commissioner of Police and his contribution to this debate over the past couple of months. Since we began the debate on this bill in the Legislative Council, we have had another incursion into the fray by the police commissioner, when on Monday, 19 November he published in *The West Australian* an open letter to parents. I will go through this letter in some detail, because he raises a very important point. Remember that what I am talking about here is the fact that we already have measures in place to deal with criminal behaviour. The police commissioner raises in his letter a number of other measures that we have in place, under different acts, to deal with not just criminal behaviour but the issue of protecting children who are at risk. The police commissioner writes —

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Dear parent,

I am no stranger to controversy and criticism and if this letter offends I make no apology. If you have a son or a daughter under the age of 18 then they are children for the purposes of the law in WA.

To be frank, my officers are sick and tired of dealing with some of your children.

It is your children who make up the majority of people at out-of-control parties. It is some of your children who destroy the property of others at these parties and it is some of your children who are costing the taxpayers of WA hundreds of thousands of dollars.

I wonder whether any member of the government read that letter on the day and stopped at that point and thought, “Aha! We’ve just been outed on another problem that we’ve been denying during this debate.” That problem is that the main focus of this bill—the main effects of this bill—will be felt by children. The government has actually denied that, yet the police commissioner is clearly saying in his letter to parents that it is their children who make up the majority of the people at out-of-control parties. So let us not have any nonsense from the government about the fact that this bill does not focus on people under the age of 18, because the police commissioner says that it does.

I continue with the letter —

While we are sorting out your son or daughter our resources are being diverted from other people in need. I would dearly love to show you and the world the faces of your children as they hurl rocks, bottles and abuse at police officers but unfortunately the law prevents me from doing that.

That is very interesting, too, because the government has introduced prohibited behaviour orders, and the key part of those orders is the very name and shame issue that the police commissioner is talking about. That also raises for me the question about what the police commissioner meant in a previous published article that he wrote about this measure when he said that he does not want to have to start using water cannon and “things” against children. That is a direct quote. I have put the word “things” in inverted commas—they are probably more appropriately called “scare quotes” in this case. What are these “things”? What is the police commissioner talking about? Is he talking about tear gas? I do not know. But that is clearly a rhetorical point being made by the police commissioner that should ring loud alarm bells among government members.

I continue with the letter —

It puzzles me who taught your children to behave this way. Was it you? Perhaps you thought it was their right to challenge authority if they did not like what they were being told. Perhaps you taught them to win at all costs.

I often wonder if you have any idea what your 14 or 15-year-old is doing when they are not at home late on a Friday or Saturday. Do they have your permission to roam the streets and cause havoc? Do you believe, unequivocally, what they tell you?

In recent times, my officers and I have been criticised for not arresting and charging your children. Many of them throw projectiles at police and then disappear off into the darkness so it is often difficult to identify who did what. In order to deal with this I am writing to you to advise you of our new approach. Unfortunately, this approach is likely to result in some inconvenience to you.

At that point I thought that the police commissioner was going to talk about the out-of-control gatherings bill, but he does not. This is what he says —

Under the Children and Communities Act in WA police have the power to apprehend and detain your child if we consider that they are at risk. We need no other reason. I think it is perfectly reasonable to assume that if your child is found in the presence of projectile-throwing, abusive and alcohol-affected children that they may be at risk. My officers have been instructed to detain children at out-of-control parties, whether they have committed an offence or not.

Once we have detained your child then we will be giving you a call. I know this will disturb your sleep, however, you must realise that your child has been disturbing the sleep of others. We will require you to come and collect your child (I am not running a taxi service). Don’t worry, though, there will be plenty of other parents in the same position. Perhaps you might meet them in the waiting area of the police station.

My officers must make reasonable inquiries about the welfare of your children so they will certainly want to know whether you were aware of the whereabouts of your children and what permissions you

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might have given them. They will also want to speak to you about any offences that your child may have committed and will explain the judicial process if that is applicable.

We have become very concerned about the numbers of children who are repeatedly found on the street late at night. Don't be offended when we tell you that we may be supplying the Department for Child Protection with the name of your child. It is only fair that the appropriate authorities are kept informed of children who may be at risk.

Two weekends ago we detained 23 children at out-of-control parties. Not all had committed offences. My officers reported to me that one parent was angry because he had given permission for his 15-year-old son to be out at midnight and intended to make a complaint. It is important that you understand that while you can give permission for your child to be out late, you cannot give permission for them to be in "at-risk" situations.

I will not read the rest of the letter, but for any member who wants to read the rest of it, it is on page 16 of *The West Australian* of 19 November. My point in quoting that letter at some length is precisely to show that the police commissioner is referring to powers other than the powers conferred on the police by this bill; therefore, when the Attorney General gets cross with us for pointing out that the police already have measures for dealing with criminal behaviour—and it appears that there are already measures under the Children and Community Services Act not just to counsel, but also to detain children in the company of rock throwers—he will know that it is specifically what the police commissioner is saying. I quote again —

I think it is perfectly reasonable to assume that if your child is found in the presence of projectile-throwing, abusive and alcohol-affected children that they may be at risk.

I therefore ask the minister to explain exactly what the measures of this bill are supposed to be about. Again, in case attention has wandered, I phrase that question in terms of the one I opened with, which is: are more young people going to come into contact with the juvenile justice system as a result of this bill?

Moving on to the contents of the bill specifically, there are four or five areas where we are looking for answers and explanations, and I will take them in no particular order. The first is the amendment to the act in proposed section 75A, which defines a gathering for the purposes of the bill as 12 or more people. It is far from clear to us why the number 12 has been chosen. I have heard some very unkind suggestions about why the number might be so low—to do with how far people can count! I am sure there must be a more substantial explanation than that. The problems I see with this apparently arbitrary picking of the number 12 is that there could of course be much smaller gatherings that have much worse outcomes in terms of damage to the community or damage to the people who are perpetrating that behaviour. There could indeed be just two people in such a group who are engaging in that behaviour. I cannot see why the number 12 is seen as having some particular trigger point. Perhaps the minister will be able to explain what the alternatives are. What happens if there are 11 people there? Does that mean that even if it becomes an out-of-control gathering the police cannot intervene? What is the tipping point with the number 12? Where does the bill refer to the intention of the people who are gathered? I know that the government will claim that these measures will not sweep up things like political or union protests because it will refer to this matter of intent. But do we look at the intent when we define something as an out-of-control gathering? I need to be very clear about this: I am not saying the number should be more or less than 12, but I fail to see how we get to 12 and—boom!—we have a different kind of gathering. So, that is proposed section 75A.

We then move on to proposed section 75B, which refers to penalties. There is a penalty of \$12 000 in this proposed section. I cannot see anywhere in the bill—of course we have not seen the regulations but maybe this is something the minister will be able to address—any reference to capacity to pay when it comes to setting these penalties. We are talking about \$12 000 or 12 months' jail. I referred earlier to the fact that almost always an encounter with the juvenile justice system is a negative experience for a young person. If a person ends up actually going to jail for 12 months, that tips it over into a whole different set of consequences. Where is the reference to what the intent of these people are and what their level of culpability is? What penalty is likely to be imposed on somebody by talking about a \$12 000 fine? I know that elsewhere in the bill there are references to \$3 000 fines, but here we have very substantial penalties being imposed on people with no reference to the capacity to pay. There is also no reference to the degree of culpability. I am not suggesting that this is always an opaque matter. Clearly, if we see somebody hurl a rock, then we have evidence. But where do we produce the evidence when we are charging somebody with an offence that is to do with organising or facilitating an out-of-control gathering? Surely somewhere along that line—this links back to my concerns about proposed section 75A—we have got to talk about intent. I have already said that no measure in this bill refers to educating people about the use of social media and privacy settings. I am therefore concerned that we will see a whole lot

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more people getting scooped up in that net of unpaid fines. We have already had some debate during the course of this year about what happens to people who end up without a driver's licence. The government's tally of unpaid fines is constantly escalating and we do not seem to have any sort of measure for intervening in that cycle.

Let me move now to a couple of other concerns. They have already been raised by other contributors on this side of the house so I will just refer to them briefly. The first is the reference in proposed section 38A to remote communication by a senior officer at a minimum level of sergeant or above. I am not going to cast any aspersion on individual police officers, but there was an event in New South Wales recently that I thought was worth bringing to the attention of honourable members when we get to the point of considering proposed section 38A. Remember what proposed section 38A says. I will put it into English: a sergeant or a higher-ranking officer sitting in a police station in a remote location may get a call from an officer who is at the scene. The police officer tells the sergeant that there is a problem and that the provisions of this legislation need to be invoked. What does the sergeant do? How does the sergeant or senior officer assess the situation and make a determination without being at the scene and without having seen, heard or felt the dynamics in the air? How will that person make a decision? The incident in New South Wales to which I referred was the awful tragedy in which a young man who was tasered ended up dying. I do not want to blow this out of proportion, but I want to make reference to a couple of comments that were made in the coroner's report on that incident. The coroner said that the police officers involved acted like the schoolboys in *Lord of the Flies* with little or no understanding of what threat or crime was supposedly being averted. She went on to say —

... the actions of a number of the officers were just that: reckless, careless, dangerous, and excessively forceful. They were an abuse of police powers, in some instances even thuggish, ...

I say again that I am not making any aspersions about the behaviour of individual police officers. What I am talking about is one very small clause in the bill that will give a senior officer the ability to make a determination from a remote location. How on earth can we monitor the effectiveness of this measure and guard against a possible misuse of the measures in this bill? It seems to me to be very, very simple. We should remove the reference to a decision being made remotely and ensure that a senior officer is at the scene to make an assessment about the appropriate degree of response. That is not in the bill.

The last point I want to make refers to proposed section 38B, which includes the phrase "likely to be audible". Police officers have to give a signal to warn every young person in attendance that it is now an out-of-control gathering and they are liable to be caught by the provisions of the bill. "Likely to be audible"—again, I cannot see how this will ever be controlled. The juvenile justice system is already groaning under the weight of scarce resources. The Commissioner of Police is the first to say that the police have limited resources so they should be properly deployed. Our courts are full, and all of a sudden lawyers will want to test the concept of "likely to be audible". I cannot wait to hear the Attorney General's explanation about how this will work.

Earlier in the debate a member—I cannot remember who—referred to the fact that measures already exist when people fail to disperse on orders of the police. I had an opportunity to look that up. I tell the Attorney General that that measure is found in section 61(2) of the Criminal Code. When the Attorney General goes through these points in an attempt to show us that they are wrong, I ask him to explain to the house why that measure is not being used by the police and why it is not adequate to deal with the sorts of things we are talking about.

I will begin to summarise. There is no doubt about it, this bill contains new offences. There is the new offence of organising—of organising gatherings that become out-of-control gatherings. It will also introduce the new offence of failing to comply with an order. I would like the Attorney General to explain why these new offences, in his and the government's opinion, are necessary and why they are not captured by provisions that already exist that relate to unlawful assembly, failing to disperse on orders of the police, disorderly behaviour and obstructing police. The key question we should be asking ourselves is: what sort of society are we becoming? I have already quoted the Commissioner of Police's earlier comments about out-of-control gatherings when he said he did not want to start using water cannons and "things" against children. The dangerous trap that the government has fallen into is that it has listened to simplistic commentary about a problem and devised a simplistic answer. The problems are obvious, well-researched and well-canvassed and are the subject of a great deal of discussion by everybody except the government. The problems are antisocial behaviour, the misuse of alcohol and the use of modern drugs, such as methamphetamines which, quite frankly, are ripping sections of our community to pieces. It is simplistic in the extreme for the government to come into this place and say that it can fix all these things with one little bill that gives a police officer the ability to walk into a gathering of 200, 300 or 400 kids, give a warning, start rounding up those kids and charge them with offences that carry very, very substantial penalties.

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In closing, I refer again to a comment that arose out of the terrible tragedy in New South Wales, to which I have already referred. As was stated in the coroner's report, one of the things that came out of that situation was that the police became the enemy. The only enemy that young man was fighting was the police. I suggest honourable members consider what will happen if we set up a system and facilitate a type of society in which the only enemy for particular groups of young people is the police. It seems to me that that is a recipe for unmitigated disaster. It is not a track we should be going down as a society. It is not a track the community wants us to take. There are no simple answers to these problems, problems that are caused by the misuse of alcohol and the use of drugs such as methamphetamines, and antisocial behaviour. There are no simple solutions, so pretending that there are is to perpetrate a cruel trick on the Western Australian community.

**HON PHILIP GARDINER (Agricultural)** [11.48 am]: I rise to speak in favour of the Criminal Law Amendment (Out-of-Control Gatherings) Bill, but in doing so I will draw on two observations made by Hon Sally Talbot in her speech. The first was a reference that it is a social dysfunction issue that we have to deal with, and this is a measure that we are considering in dealing with a complex and very detailed problem that is full of undercurrents that contribute to social dysfunction in the community. The second point I wish to pick up on is her suggestion that people very easily consider the police their enemy. I will begin with out-of-control gatherings and then the police issue.

Out-of-control gatherings seem to be a social phenomenon that is increasing in frequency; however, they have always been there. People have always gatecrashed parties. That is the term we used to use; perhaps it is something different these days, especially given the social media to which we all have great access. Out-of-control gatherings are reaching a point of relevance in our community, and in the absence of us as the community doing something, we have to call on the powers of organisations such as our police force. It should not be that way. We should be taking greater control of our communities. But such is the culture in our community that parents and communities abdicate a lot of responsibility and look to the police to fix all the problems. We have a social phenomenon that, as can be seen by the press given to this issue over the past few years, is an instability that we have to address in the short term with measures that are not perfect. Under this bill, when a person organises a social gathering he can get approval to have a party or advise the Commissioner of Police and do a few other things to be exonerated if anything goes wrong. That person can have security and that kind of thing at the gathering, but the kinds of gatherings that this bill is aimed at are those in which a lot of people go to a premises and drink alcohol, have drugs or become engaged in some kind of fight, and then the whole thing starts to get out of hand. One thing about this bill that is relevant and brings me to support it is that it is a preventive measure; it has the capacity to prevent these out-of-control gatherings from erupting. I am sure all of us at one time or another have gatecrashed a party. When we have done so we might have done it in a very quiet and peaceful way by putting our beer in the fridge—I used to put home brew in the fridge and take someone else's Swan Lager—and then mixing with the people around us. I am sure that people still gatecrash parties—that is a given—but they may not do it the way we did it by mingling and being socially functional even though we were not invited by the host at that time. Let us say that we are not that kind of person and that we go to a party and the host does not want us there. After seeing what kind of people we are, the host may think, "This is not good, I don't want these people here, so what do I do?" As I read the bill—I would like to have this clarified by the Attorney General—it states in proposed section 75A(1)(b) —

2 or more persons associated with the gathering engage in conduct of any of the following kinds —

- (i) trespassing on a place ...

That deals with the undesirable gatecrasher component. I come then to the powers that the host has of calling the police to get such people off of the premises. If I hold a party in the absence of my parents who own the premises, my understanding is that the police do not have the power to go into the premises to find the people whom I do not want to have at my party. If the police do not have that power then there is the possibility, with certain other circumstances happening, that things can escalate out of control. This preventive measure is one of the positive things that can occur before a party gets out of control where there is a group of more than 12 people on a property that is not owned by the host and the only way he can get rid of the unwanted people is, as I see it, through this bill.

The Criminal Investigation Act 2006 allows police to enter premises without a warrant, but it requires a test of exceptional circumstances before they can do that. I have been advised that "exceptional circumstances" includes someone wielding an axe around his head in an attempt to get someone to leave—that is not what most parties are like—and by then it is often too late. This legislation provides police with a different ground under which they can enter a property. The main reason this bill has merit is that it contains a preventive measure that is much better than what is currently in place; that is, when a party gets out of control, it is only then that the police are called, but even so, as I have been advised, they cannot enter the premises. However, as Hon Giz Watson and

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[COUNCIL — Tuesday, 27 November 2012]

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Hon Norman Moore; Hon Kate Doust; Hon Giz Watson; Hon Jon Ford; Hon Dr Sally Talbot; Hon Philip Gardiner; Hon Matt Benson-Lidholm; Hon Ljiljana Ravlich; Hon Ed Dermer; Hon Adele Farina; Hon Sue Ellery; Hon Ken Travers; Hon Michael Mischin

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Hon Alison Xamon and other members I am sure have pointed out, when police have these functions we must remember that they also have personalities and behavioural traits and that it is very easy—I have certainly experienced it firsthand—for police to behave in such a way that, as Hon Sally Talbot said, makes the police the enemy. The respect is gone. It is almost a lack of mutual respect in some cases between police and members of the community. A number of members in this chamber think that if we just punish people, that will help them to respect the police. It does not happen that way. We have been through that for years and years and it does not work that way.

We are introducing a measure that is, in a sense, a temporary measure; it is the best we can do at the current time, but it will not address the source of the problem. We need a package of a number of things reinforcing each other, and part of it comes back to how the police operate. We all have a great deal of respect for the task the police are brought in to deal with and manage; there are no two ways about that. As we know with people it is not necessarily what someone says but how it is said and how it is done, be it in the community, in corporate takeovers, or with police exercising their powers. I hold the strong view that policing is a service industry with enforcement powers. If we go the other way, then it is just an enforcement body, and it will not win the hearts and minds of people. What do we say about our soldiers over in Afghanistan or Iraq? We are proud because Australian soldiers in the Australian Army are very good at winning the hearts and minds of the people in whose countries they are actively trying to assist. We think we do it better than the Americans and others, which may or may not be true, but that is the pride that I have in our military. However, in having pride in the military, it has probably undergone intensive training on how to do carry out that role. My great concern is that for this legislation to be a proper package, even though it is a short-term solution, the police must recognise the need to behave in such a way that mutual respect can build between them and the community. On the other hand, I know how hard that is because we are the ones who abrogate responsibility in our community with the behavioural training of our children, our families and everything else, and we expect the police or the teachers to fix it up. Why do we always blame someone else for this? We are the problem and until we take that message out to the community and its individuals, we will never fix it.

There has to be a revolutionary approach to bring accountability and responsibility back to where they should belong: with us individually, and within the community. Even if we have no money, as a community we can work together. No matter how wealthy people are, they can work together as a community. Wealth is not the test; the test is just being accountable and working with others to achieve the outcome of decent, sensible people growing up in our community. We will not get it all—we all know that—but we will get much better than what we have now.

The role of the police is very crucial. I may have mentioned previously that I have in the past taken a different view from the police on traffic matters and have taken the matters to court, and that was, in a sense, only because of the behaviour of the police in not understanding the circumstances. The court in one case made a judgement in my favour, and a statement in my favour in another case which led to things being sorted out. But it should not have to be like that as often as it is.

Someone sent me a note in relation to the hoon legislation passed recently by this Parliament. It related to a bachelors and spinsters party held in January. Apparently in 2010 there had been some kind of convention in which people took their utes out to a paddock adjacent to the party to hoon around —

**Hon Kate Doust :** And they never get wild, do they?

**Hon PHILIP GARDINER:** They are country people; we know how respectful they are, Hon Kate Doust!

Several members interjected.

**Hon PHILIP GARDINER:** Yes, we also have big paddocks!

**Hon Giz Watson** interjected.

**Hon PHILIP GARDINER:** That is what the police said also, Hon Giz Watson!

In 2011 the police were around when the same thing took place. One chap went out with the intention to hoon in the paddock, but saw how ripped up the paddock was and so came back out without doing anything. However, the police stopped him and charged him with hooning. He said, “I haven’t done anything! I just went out to have a look.” I presume he would have said, “Yes, I would have, but I didn’t.” What followed for him was a long period of 22 months of going to the Magistrates Court and having appearances cancelled and rescheduled, and in the end it caused him a lot of disillusionment with the police and the court system, and it is very hard to win those people back.

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The difficulty I have with that situation is that the police could have made inquiries and found the elements necessary to assist them in making a better judgement about whether a charge should have been brought in the first place. This boy went to Aquinas College, where the motto is something like “respect the truth” —

**Hon Jim Chown:** Veritas vincit.

**Hon PHILIP GARDINER:** There we go, there is an Aquinian here: veritas vincit. What does that mean, Hon Jim Chown?

**Hon Jim Chown:** Truth conquers all.

**Hon PHILIP GARDINER:** There you go: truth conquers all—another motto. If that is the motto, how many people who have that motto drummed into them become disillusioned when they are confronted with circumstances in which the police either do not have the same motto or have other pressures that compromise their judgement in respect of that particular motto? That is what I think a lot of the difficulty is: our behaviour is rational to ourselves. If I have a dislike for the police and I try to hit a policeman, that behaviour is rational to me and not to anyone else. I have to either change my behaviour or stop that behaviour from growing and developing in that way.

I think this legislation is necessary; it is not ideal by a long stretch, but it is necessary. We need to work with the community on social accountability, which is a far deeper thing than we can deal with today. It needs a revolutionary approach to make the change, but I am sure that if we make the change, we will have an improvement that will be less costly in almost every way to the state government. We need to bring accountability back to ourselves, but the legislation that we are considering is very contingent, in my view, upon the police and the way that they are trained. We are not talking about one month’s training; we need to reinforce training to encourage a culture of a service industry with the power of enforcement, rather than the reverse.

**HON MATT BENSON-LIDHOLM (Agricultural)** [12.06 pm]: I rise to likewise make a contribution to debate on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. Hon Kate Doust made mention of the sorts of parties that she attended in her university days, and, as someone who spent four years at university, I enjoyed the same sorts of parties that everyone did. However, in 2012 and no doubt beyond there are and will be new dimensions to the issue, and as far as I can see they have to do with social media. Before I launch into the issues that I would like the Attorney General to address if he deems it appropriate, I would like to make a few comments about some of the contributions made to the debate thus far.

I have already alluded to the fact that Hon Kate Doust, in her introductory remarks, talked about the nature of the changes in society that have brought about the particular issues we have. I remember a particular brother-in-law of mine who had his twenty-first birthday party in the 1970s. A couple of people turned up to his party from absolutely nowhere; I can assure members that in the 1970s there was no such thing as social media. My brother-in-law had never seen these guys before, and never saw them again after the party, but about the worst thing that happened was that one of them managed to fall backwards into a rose garden!

**Hon Ljiljanna Ravlich:** That was wild!

**Hon MATT BENSON-LIDHOLM:** It was a different way of behaving! He managed to extricate himself from the rose garden and kept going. Perhaps that particular gentleman has since grown up to be a model citizen—I would hope so—but certainly we did not know where he came from and we never saw him again, and that particular issue was about the wildest thing that ever happened at any of the parties that I attended.

**Hon Michael Mischin:** He might have become a landscape gardener!

**Hon MATT BENSON-LIDHOLM:** Who knows? He might be a surgeon of note, or a dermatologist; who knows, Attorney General?

**Hon Ed Dermer:** Probably a horticulturalist, I would imagine!

**Hon MATT BENSON-LIDHOLM:** I think that might have cured me, Hon Ed Dermer!

Hon Sally Talbot also made some very poignant remarks on this bill. Again, I put it on the record that there is support for this bill; I think communities demand that Parliament endeavours to do something about addressing this issue. Hon Sally Talbot was, however, making the point that it needs to go a little further than a purely legislative program; I am sure that that is something the Attorney General will address in his reply. We on this side of the house have concerns that need to be addressed by the government. Hon Sally Talbot referred to the Youth Affairs Council of Western Australia, and I would like to think that a ministerial response and scrutiny of the role of the Legislative Council in putting these concerns to the Attorney General is something that he would treat very seriously. Hon Sally Talbot also mentioned concerns about more and more young Western Australians

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coming into contact with the juvenile justice system. Being a representative of the Agricultural Region and being concerned about the sort of area I live in on the south coast and of those I have seen on my travels around Western Australia, I think this is a particularly significant issue and, dare I say it, particularly in relation to the Indigenous community, which is represented more than any other group in our society; it is a real problem. When young people are exposed to something like the juvenile justice system, some of them will be impacted for years to come, if not for the rest of their lives. This is something we need to avoid at all costs. Hon Sally Talbot also mentioned the big-stick approach and the fact that there is no carrot for many of these offenders. That is like most, if not all, of this government's law and order agenda, which seems to adopt this big-stick approach. Hon Sally Talbot mentioned education and I will mention education later. She also talked about the fact that a number of other problems are part and parcel of this particular legislation. I am certainly keen to hear the Attorney General address those concerns that Hon Sally Talbot mentioned.

As usual, Hon Philip Gardiner made very good sense in relation to the issues he has with this legislation, again, supporting its general focus. I now make a few observations about what Hon Philip Gardiner said. He made mention of the fact that the hosts of these parties can request people to leave a party before it gets out of hand and, if I understood him rightly, he said that under this bill police can enter a property, which is a prevention-style measure that is maybe also entrenched in other law—I am not sure; I am not an expert in this field. I will make mention of some comments later on that are attributable to another social commentator who believes that this sort of legislation already exists for us to fall back on, but Hon Philip Gardiner also certainly made mention of this point. He mentioned what I thought was a very relevant point; that is, as Hon Sally Talbot mentioned, that this sort of legislation as an entity by itself will not solve the problem, hence my remark of a minute or two ago about education and about doing something with the young people in our communities that will effect some sort of significant change in the way they respond to the issues in the world in which we live. I do not know how that can be done with social media; I am not a huge fan of some elements of social media, but it is certainly an issue we need to address. Hon Philip Gardner talked about the need for there to be a—I think he used the term—“proper package”; I do not want to misquote him. He also included some statement about a prerequisite surrounding police behaviour. Recently I discussed this issue with a former police officer in charge in Geraldton and the midwest and he made the remark that in rural parts of Western Australia police officers perhaps do not have the experience that many police officers might have in the metropolitan area or places in the rural urban fringe locality of Perth, where some of these issues have come to the fore in recent times. The experience of police officers in the bush can from time to time cause some sort of an issue in local communities.

My contribution to this debate, apart from quickly going over what those other members have said, really just revolves around some general remarks, some concerns I have and the implications in turn for the Agricultural Region. When going through this legislation I thought to myself that there was no real point in sitting down and asking myself why, because I think, as I have indicated before, it is patently obvious. We have had a number of parties in recent times that have simply got so far out of hand that we have had issues such as injury to people, cars and property. There have been stabbings, there have been noise issues, ambulances have been attacked and, in turn, arrests have been made. This is not the sort of society that I and members of this Parliament of Western Australia want to live in. It is the sort of thing about which people come and say to us as members of Parliament, “You people need to do something about this.” On that score, I do not have a problem whatsoever and I do not think this side of the chamber does. But as Hon Sally Talbot pointed out, it has to be a complete, unified sort of a package.

An area I have a concern about is that the legislation targets the organisers. There are penalties such as heavy fines and even jail, and specifically the legislation makes it an offence to hold an out-of-control gathering. As a number of members have pointed out, that becomes an issue in itself when consideration is given to the problem of gatecrashers. I am not talking about the gatecrashers I was associated with back in the 1970s; we are talking about a serious issue with the mindset of these people who gatecrash these parties being to cause as much damage, destruction and dissension amongst the partygoers as they possibly can, and by doing that these people seem to think their weekends have been worthwhile.

I want to talk about some issues that came up that I would like the Attorney General to take on board. These issues stem from some remarks made by Mr Philip Urquhart, the vice president of the Criminal Lawyers' Association of Western Australia. Whether or not the Attorney General has already noted these concerns or is prepared to address them, I would at least like him to take them on board at this point. Mr Urquhart says that he believes the new laws are unnecessary because most of the offences are already included in the Criminal Code. I believe the Attorney General made a remark or two when Hon Sally Talbot alluded to that point. My concern basically reflected that issue in the remarks that Mr Urquhart made, and I put the question: is this law necessary or is it a bit of a quick fix? Could I have the Attorney General's observations? Mr Urquhart also said —

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People cannot take part in an unlawful assembly; unlawful assemblies can be ordered to disperse by police officers, if they do not disperse that's another offence which carries a term of imprisonment, ...

He also went on to suggest —

Then there's disorderly behaviour which carries a heavy fine, and there's also obstructing a police officer when he is carrying out their function.

That is perhaps his take on things. In supporting this bill the opposition believes that the best part of this bill is that it creates a new offence by saying it is illegal to hold an out-of-control party, but stemming from that are the following issues. I put it to the minister that this new offence of holding an out-of-control party is fraught with two difficulties. The first is in establishing who actually organised the party, because that, perhaps, is not readily observable; and the second is whether they are responsible for the party being out of control. As a point of law that must surely be the most difficult thing for the police and the courts to decide upon.

**Hon Ljiljanna Ravlich:** And the lawyers.

**Hon MATT BENSON-LIDHOLM:** That is very true as well, honourable member.

Mr Urquhart goes on to suggest that —

... magistrates will be unlikely to impose a prison sentence on a young person or issue a fine that they have no means to pay.

That is something we will never know unless it is tested in a court of law. Maybe magistrates will be loath to go down that pathway.

Another issue I have is that this law will do nothing to encourage the sensible behaviour of young people. From the stories that have hit the media in recent times, I would make a fair guess that most of the parties that become out of control do so simply because of gatecrashers; I believe we all know they exist. That stems largely from the fact that party information is posted on social media sites. How on earth we can ever get around to doing anything about that, I do not know, let alone controlling the behaviour of the people who go to parties to wreak havoc. The question then, minister is: how can someone control a person who is crashing a party and causing problems? I would suggest that sometimes it is not possible for people to anticipate that that is going to happen, and when it happens and by the time they have come to the point of seeking assistance from the local police—they may or may not be available—it is simply too late. There is a question around who might work that out. Also, a bit of an issue was raised by Hon Philip Gardiner with respect to why a gathering of more than 12 people was specified; no doubt the minister will be able to address that issue.

I put to the minister that the right approach is not the big-stick approach; maybe it should be education and teaching young people not to have these sorts of parties. To ask a 16-year-old who has gone to the trouble of organising a party to pay costs that in some cases might amount to literally tens of thousands of dollars is no solution. That creates more anxiety and frustration, and issues associated with the local police.

I have a few remarks that pertain to the Agricultural Region I represent. I know there is a significant population variation, but I am pleased to be able to say that when it comes to out-of-control parties, the people living in the two towns I did some investigation work on—namely, Geraldton and Northam—do not tend to have these issues, which is very reassuring. But one of the problems in the regional and rural parts of the state—I think it also applies to the rural urban fringe parts of Perth where some of these parties are currently an issue—are the issues around, as I think was mentioned by Hon Philip Gardiner, the bachelors and spinsters parties. The problem with a lot of these sorts of parties is that when people leave them, they are at a level of inebriation that can cause significant problems. We all know that people in the bush leaving parties may travel at high speed and run into trees; trees do not move, and fatalities occur in the bush. As I am sure a number of my regional parliamentary colleagues would agree, the issues associated with the death and serious injury of young people have become a huge problem. Some years ago I lost one of my cousins to one of these very accidents down on the south coast, when he ran into a karri tree; not much can be done once somebody runs into a karri tree at high speed. These issues well and truly bring into focus the need for a well-developed and resourced education program. It is not going to happen overnight, but when the government gets to the stage of putting in regulations to try to make sure that this bill, after it becomes an act, has the greatest possible capacity to deliver for the community, it will need to ensure that there is education and that resources and the like are applied appropriately to enable this legislation to work.

I spoke to a former senior police officer about some of the issues in his area. He talked about Geraldton, the midwest and Carnarvon, and his comment was that these types of parties in regional and rural parts of Western

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Australia tend to be more the exception than the rule. He perceived there to be more problems with violence, particularly in Aboriginal communities, than with out-of-control parties; perhaps there is an issue there as well.

I will make some specific mention here about resources, because if there is an out-of-control party in a place like Armadale, Canning Vale or wherever else locally, a significant police force back-up support mechanism—call it whatever we like—can attend those parties. The police officer I was talking to, who had been in charge of Geraldton Police Station, said, I think, that at any one point in time he might have a maximum of 14 police officers at his disposal. With 14 police officers, if one of these out-of-control parties occurred in the regions, it would be simply impossible to deal with.

**Hon Adele Farina:** If they are available.

**Hon MATT BENSON-LIDHOLM:** They are not there, because a number of those officers have to run the police station; they cannot just close down some of the largest police stations. So I certainly would not mind if the minister made some sort of a comment on, or at least acknowledged, the issue of resources, because while these 14-odd police officers are dealing with an out-of-control party, the rest of the area they police is being largely ignored. I made a point on the lack of experience of younger officers in regional police stations, and in the bush, which is certainly a significant issue.

In conclusion, I am not opposed to any of this bill per se, but there are certainly issues associated with attitudes and binge drinking that are very different to what they were when I was a young university student. It was interesting to note, in doing research, that alcohol, which is particularly the issue here, is provided in European countries through supermarkets and the like, yet these sorts of problems do not exist. If this is a cultural and attitudinal type of thing, it certainly warrants much attention by way of resources and education. I really cannot see any other solution to it. I think the big-stick approach may provide some sort of a quick fix and be useful in some contexts, but I think there needs to be an integrated package. I do not think legislation by itself will necessarily solve anything in the long run. The broader community is certainly demanding changes and new laws. I accept that, but I also rather want to see these other changes. There is a role for education, schools and the media, be it television, radio or newspapers. I do not know how the Attorney General will do something about the social media issue, which underpins everything the bill is about. But without some attempt to address the problems that it presents, I think we will continue to have issues almost ad infinitum. With those points, I will resume my seat and wait for the Attorney General to make his response in due course.

**HON LJILJANNA RAVLICH (East Metropolitan) [12.30 pm]:** I, too, want to make some comments about the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. I believe that young people across the state will be feeling like targets of this legislation. There is no doubt that this legislation is directly targeted at them, so it is not surprising that they might hold that feeling. I am concerned about some of the unintended consequences of this legislation. Having looked at the bill, it seems to me that trucks can be driven through it and there is much that is uncertain about how this legislation will work. I have a horrible feeling in the pit of my stomach that this legislation may well be the Barnett government's next "yellow Lamborghini" from the point of view that it is likely to have all sorts of unintended consequences. I must admit that I am concerned about those unintended consequences.

There is no doubt that the nature of parties has changed over time. There is no doubt that the way that young people behave and their expectations of parties have also changed. I do not really want to analyse how it was in the 1970s compared with how it is now, but there is no doubt that expectations are different. Gatecrashers have been around for as long as I can remember, and people will continue to crash parties. The big change is that modern media makes information about where these gatherings or parties are much more accessible; therefore, those who want to participate and create a nuisance of themselves may well be drawn to them. I am concerned about the role of the media, which has not really been mentioned by other speakers in this debate. I am concerned about the role of the media not only because of the way they portray young people, but also in the sense that to some extent they have made heroes of some of the young people involved in promoting or putting together these out-of-control parties.

I will quickly take members back to when I think this issue gained some considerable public prominence. It was with a young man in Sydney who was a 16-year-old apprentice carpenter. Members might remember him. His name is Corey Delaney. He became an overnight sensation. He was on every media outlet throughout the nation. I guess he might have become a bit of a hero to other young people. I refer to an article from Friday, 8 February 2008. It states —

Two weeks ago Corey Worthington was an unremarkable 16-year-old apprentice carpenter with a penchant for yellow-framed sunglasses, living in his parents' house in the suburb of Narre Warren South in Melbourne.

**Extract from Hansard**

[COUNCIL — Tuesday, 27 November 2012]

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Today he is one of the world's most famous teenagers—a Google search on Corey Delaney, the mistaken name under which his antics originally emerged, brings up 573,000 references, and 186,000 more under his real name—with a publicity agent and a world tour booked.

All because of a party.

It goes on to quote him as saying —

“A week ago, I was on the building site working hard, and now they put me on national tour. I’ve got an agent—life’s good,” Worthington told a tabloid television news program in a paid-for interview last week.

The media has made a young teenage boy who got himself into some strife through holding a party that got out of control into a national celebrity. He was certainly on television in Western Australia for weeks running. There is no doubt that that would have caused some heightened level of interest amongst young people here. I do not think that young people go out with a view to create mischief or cause public disturbance. I believe young people are good people. I think this legislation unfairly discriminates against them. One of the differences is that when many of us in this place were younger, alcohol was considerably cheaper. People who went to a party could afford to buy some alcohol and take it with them. What I have noticed now is that many young people will often drink at home or buy alcohol by the bottle somewhere and share it with their friends, sometimes with a view to getting tipsy or drunk, and then they will go off and have a night of fun. They simply cannot afford to consume alcohol at licensed premises by and large, so often that is the way it is done. This issue of access to alcohol, and access to alcohol by young people in particular, needs to be looked at.

I quickly want to touch on the issue of police resources. There is no doubt that out-of-control gatherings impose a heavy burden on police resources. One might even look at the bill as being as much about cost recovery as anything else, because at the end of the day, the government is trying to identify who is responsible for out-of-control parties. Obviously, there are costs involved in having police officers attend out-of-control parties, and of course those costs can be significant. In fact, in relation to the heavy burden on police resources, the second reading speech states —

This is because large numbers of police officers, together with police vehicles, police dogs, police horses and the police air wing, are being utilised to quell unruly disturbances in suburbs across the metropolitan area. In many cases, police officers who are called to respond to out-of-control gatherings are attacked by persons associated with the out-of-control gathering. Unfortunately, it is not uncommon for glass bottles and other missiles to be launched at police officers and other police assets.

I am wondering whether the Attorney General would be able to provide some information to the house on what the government has estimated to be the annual cost to WA Police of dealing with out-of-control parties, and whether any modelling has been done on the cost recovery that the police wish to achieve with this legislation. I am wondering whether there is anywhere in government—most likely in the police department—a schedule that shows the full projection of how much revenue it is expected that this legislation will recover for the police. It may be that it will not be recovered for the police but will go into consolidated revenue. It may be that the cost of implementing this legislative requirement will have to be met by the police, but any revenue that is generated from any fines that are imposed will go directly into the government coffers. I would like the Attorney General to provide that information, if it is available.

I would also like to raise a couple of issues about the definition of “party organiser”, because that is what this legislation is aimed at. I am wondering what would happen if it was found that the organiser did not have any control over what had happened at a party. I came across an interesting article in the *Bunbury Herald* of 23 October 2012 titled, “Youths pelt police as they break up party”. The article states in part —

Australind police had to call in back up from Bunbury after a group of youths crashed a party and it got out of control.

About 100 youths, most aged between 14 and 15, turned up at an 18-year-old’s party near the Garfields Child Care Centre on Saturday night.

The first thing I would say is that if I was having my eighteenth birthday party, there is no way I would want 14 and 15-year-olds to be there—members can be assured of that—because that would be most ungroovy!

Several members interjected.

**Hon LJILJANNA RAVLICH:** Uncool! Okay!

Several members interjected.

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**Hon LJILJANNA RAVLICH:** Wow! Oh, we do not say wow, either! I am showing my age!

This 18-year-old was having a party, and he obviously wanted to be cool, and all of a sudden these 14 and 15-year-olds, who are uncool, roll up, and, quite frankly he does not want them there, but they will not leave. Under this legislation, what would happen? I think that is a fair enough question, because that clearly has happened, and it is likely to happen again and again and again. I may well have it all wrong and there may be something in the bill that the Attorney General can point me to in due course that provides an appropriate response to the concern that I have. But it would seem to me that if we were to apply the provisions in the legislation before us, it would certainly be unfair to punish this 18-year-old, because, quite apart from anything else, his eighteenth birthday party would have been ruined by these 14 and 15-year-olds, when he certainly did not want them to be there. What if he had taken absolutely no action to promote his party? He had not put it on Facebook. He had not put it out via the phone. He had not done any of these things. These people had just found out the old-fashioned way, through word of mouth, that, “There’s a party going on, it’s an eighteenth birthday, it’s going to be great, you’ve got to be there”, and off they go. That does cause me some concern.

There is another case that I want to refer to. This is in an article in the *Armadale Examiner* of 20 September 2012 by James Dessent. The article is titled, “Wildest party on WA record costs ratepayers”, and it states in part —

Nearly one tonne of rubbish containing bottles, bricks, glass and cans was transferred to the City of Armadale’s landfill facility following an out of control party in a disused shed on a private property in Piara Waters.

In what Deputy Police Commissioner Chris Dawson described as ‘riot like’ conditions and the worst wild party on record, more than 500 partygoers congregated at the Warton Road property on Saturday night after the event was advertised on facebook.

Acting Inspector Chris Adams announced on Tuesday that a special taskforce dubbed Operation Esryn had been formed to scour CCTV, news and mobile phone footage and identify offenders.

The 17 year old party organiser was charged on the same day after several hours of questioning.

About 70 police officers were called to disperse the crowds including officers from the dog squad, mounted police, riot squad as well as regional and local officers and the police helicopter.

It would appear that this 17-year-old is a minor. I know that the Attorney General cannot respond now, but my question to the Attorney General is: how would this legislation be applied in the case of a minor? There may be a very rational and good response to that question, and I await that eagerly.

There is no doubt that there are causes for concern in relation to this legislation. I do feel that it unfairly targets young people.

**Hon Liz Behjat:** It protects them.

**Hon LJILJANNA RAVLICH:** According to my colleague Hon Liz Behjat, it protects young people. I am not so sure that young people see it that way. There are, unfortunately, a lot of young people on our streets who should not be on our streets.

**Hon Robyn McSweeney** interjected.

**Hon LJILJANNA RAVLICH:** That is because they come from disadvantaged families or they have run away from home and so on and so forth.

**Hon Robyn McSweeney:** Even kids from non-disadvantaged families can still be on the streets.

**Hon LJILJANNA RAVLICH:** I am just saying that there are a lot of young people who are not living in happy families and for whom life presents a major challenge. I am concerned at the lack of support by government for some of those kids. Many of them congregate around railway stations and the like, and some of these young people may in fact receive communication about parties and so on and so forth. But we have to address some fundamental issues. We know that some young people—some as young as 13 or 14 years—consume alcohol on a daily basis. We do not see much assistance from this government for some of those challenges. I think that is a real problem. In fact only a few weeks back a report stated that children as young as 12 years of age are part of an alarming increase in WA teenagers getting professional help for problems associated with cannabis and alcohol use. In fact the report states —

New figures from support service Palmerston show a record number of people sought help last financial year, including about 280 aged under 18.

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That is probably just 280 from that particular organisation—I see the minister nodding her head over there—but when we have a look at what is happening right across this state, we know for example that in some communities kids are consuming alcohol at the ages of 10, 11 and 12, and so on and so forth.

**Hon Robyn McSweeney:** We still have a lot of good youth out there.

**Hon LJILJANNA RAVLICH:** Of course we have. I did not say there was not a lot of good youth. I am saying that there are lots of youth out there who do have very serious problems, and they look to government to assist them to deal with some of the challenges that they have. There is no doubt that youth feel under pressure, and this is just another burden for them to have to deal with. I think there will be lots of young people who will inadvertently be caught under this legislation, and I do have concerns about that.

**HON ED DERMER (North Metropolitan)** [12.51 pm]: Thank you, Mr Deputy President. I hope I did not pre-empt the Leader of the Opposition there.

**Hon Sue Ellery:** No; you're right.

**Hon ED DERMER:** We are all rising with some determination to share our thoughts on this important bill. It is a bill that gives members an opportunity to reflect on their life experience and in that way, through this house of Parliament, project their thoughts.

I recollect a very concerning personal experience that long preceded the invention of SMS, Facebook and other forms of modern communication. I do of course recognise that such forms of communication have the potential to massively increase the scale of the problem, but my recollection demonstrates that this problem could have occurred on a very large scale in earlier times. It is interesting to think about the potential of SMS, Facebook and such like when we think about the situation in Iran that occurred a few years back. When there was a widely held view amongst the population of Iran that the presidential election had been fraudulent, the communications on SMS, Facebook and such like enabled very large numbers of protestors to come together at a particular time. You could almost say, Mr Deputy President, that a revolution went very close to occurring in Iran, which was contributed to very significantly by the communication potential of SMS, Facebook and other forms of communication. The Iranian regime stands out in the world as particularly harsh. Its endeavours to put down the objection to the apparently fraudulent election stands as evidence of that harshness. The young people who actually took the trouble to voice their objection to that regime have to be admired for their courage.

I notice that I have caught the attention of Hon Liz Behjat. I think she would have insights on Iranian society that most of us in the chamber would not have. I have been blessed to have one very good friend who came from Iran, but my association with Iran is nowhere near as intimate as the association of Hon Liz Behjat. Sadly, many young Iranian people who used those forms of communication to organise their demonstrations actually lost their lives, and others paid very serious penalties. I remember one particularly courageous young lady who featured in the media at the time. I refer to that Iranian example just to point to the enormous potential of these forms of communication to gather large numbers of people in one place at one time. To me that directly relates to the question of police resources that my very wise colleagues Hon Matt Benson-Lidholm and Hon Ljiljanna Ravlich referred to.

It leads me back to the example that I remember, long before the advent of SMS and Facebook, when I went to Rottnest Island with a group of friends for the Australia Day long weekend; I think it was in 1984. As much as I loved Rottnest Island at that point, I resolved to never again visit Rottnest Island on a long weekend. It is easy to fall into a misunderstanding that the problems with out-of-control gatherings of young people is a phenomenon of lower income families in the suburbs where they tend to live. I fully expect, from what I observed, that many of the out-of-control young people I saw in 1984 at Rottnest Island were probably quite wealthy and came from wealthy families that often have a level of income to expend on alcohol—probably primarily alcohol then—and perhaps other means for losing control of their faculties.

My friends and I had booked and paid for a proper place at Tentland, the camping ground at Rottnest Island, and we found, unfortunately, that we were sharing it with a large mass of young people who were totally out of control. They were chanting, I think, “Kill the bikes”. They were managing to get hold of any bicycle they could and smashing them. We felt quite frightened. Our small group of about six or seven people was a mix of gentlemen and ladies, and we actually relocated ourselves to the beach and spent the night on the beach. It probably was in breach of a code in itself, but it seemed like the practical thing to do when Tentland, where we were authorised to be, came under attack. Before we gave up on our location at Tentland and moved to the beach, we witnessed the endeavours by the police officers at Rottnest Island to enforce some order. Their endeavours were unsuccessful. They were unsuccessful because they were massively outnumbered. We saw the police officers arrive at Tentland where this riot was occurring, make an assessment of the number of young

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people who were behaving outrageously and decide that they were too few in number to do anything about it. As I recollect it, after staying there for a short period, they just backed off and left. Often the presence of police officers is enough in itself to restore order; in this case it was not an effective strategy. The police would have been seen to be there, but the frenzy of the young people who were behaving badly was such that the presence of the police officers was not enough to quieten their behaviour in any way. The police officers would have assessed the situation, the frenzy of the rioters, the number of rioters and the small number of police officers, and strategically decided to back off.

At the very centre of this issue is the question of police resources. One of the things that a government can do when it is pretending to address a problem is legislate, because, other than our salaries and those of the Hansard staff and support staff in the chamber and others, legislating is a relatively cheap thing to do. The government can grab a headline and can be seen to be taking steps, but it will not make a big impact unless it spends money on enhancing police resources to reinforce the legislation that it is putting forward. As far back as 1984 on Rottnest Island there were clearly insufficient police numbers there to impact on this riot. I think this is the heart and soul —

**Hon Simon O'Brien:** Who was in power in 1984?

**Hon ED DERMER:** That is right. That would have been the time Brian Burke was Premier. That is certainly the case.

*Sitting suspended from 1.00 to 2.00 pm*

**Hon ED DERMER:** I support the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012 because I think it has merit that I hope will go some way towards keeping the peace in the state and providing the comfort and security that all Western Australians deserve. I do not want to overestimate its likely positive impact. A far bigger factor in enhancing the peace would be to increase police resources.

Before we broke for lunch, I was sharing with the house my experience in 1984 at Rottnest Island where I saw a small number of police confront a large number of people who were behaving outrageously. Before we stayed to watch the final outcome—in fact, I think it was after the point at which we saw the police back off and decide that their numbers were too few for them to intervene effectively—my party of friends and I decided to vacate the area and to sleep on the beach. Interestingly, now that I think about it, sleeping on the beach is a breach of the law. However, under the circumstances of the law breaking down in the lawful place at which we had paid to sleep, which was Tentland, the camping area, to vacate that lawful place that had become lawless through outrageous behaviour and to sleep on the beach was a sensible and practical thing to do. I feel tremendously sorry for those whose property must have been damaged. I do not know how big a deleterious impact the outrageous behaviour had on the people who managed Tentland. I do not know whether their insurance covered them for the damage that occurred. I do not know how many of the massive number of bikes destroyed belonged to those causing the destruction or whether they belonged to the bike hire people at Rottnest Island. Either way, it was a very bad experience. The far bigger issue in providing effective control of behaviour—far bigger than the marginal benefits of this legislation—is properly resourcing the police force. That is more difficult politically because it takes taxpayers' money to invest in the police force to enhance its capacity.

Mr Deputy President, I hesitate because of the protocol of how I should refer to the speech you made when you were standing next to me earlier, but in your capacity as Hon Matt Benson-Lidholm, you made the very interesting point about resources and regional areas. If there were an out-of-control gathering in the metropolitan area, I imagine it would be possible to gather and deploy police resources as they are required, because it is a metropolitan area and there is a larger total number of police. I hope that not too many out-of-control gatherings occur in the metropolitan area at the same time. I remember hearing a radio report about a situation in Fremantle or suburbs close to Fremantle a year or two back. Too many unfortunate incidents were occurring close to that suburban region at the same time and the police were too few in numbers to address all the needs that occurred at that time. I admire people who have the responsibility of representing in Parliament the Agricultural, and Mining and Pastoral Regions where there is the difficulty of sparse population density and vast tracts of distance between population centres. How police resources are sourced in regional areas to properly address an out-of-control gathering—often they occur with no notice—is a special challenge. Again, the more substantive answer to this problem, rather than legislating, which is a marginally useful answer, is to provide greater police resources.

In more recent times, I had the experience of putting on an eighteenth birthday function at home for my eldest son, Alexander. The two tricky issues when one is putting on an eighteenth birthday function are the question of alcohol and the legal drinking age and understanding the protocols of the particular families of the young people who are invited. We took a number of sensible precautions. I am very happy to share them with the house and

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whoever else might be taking an interest in what is being said. The difficulty for the 18-year-old birthday person is that he or she is very likely to have friends either side of 18 years of age. Some would be able to drink alcohol legally, some would not. We endeavoured to apply commonsense to that situation as best we could. We made sure that the only alcohol provided at the party was light beer, which is not absolutely failsafe, but it gave us a better chance of controlling a situation. We were on the lookout for anyone bringing spirits to the party. Another very practical strategy that works well is feeding party attendees to the eyeballs. The effect of alcohol is mitigated if they have lots to eat. While their mouths are full of food, they cannot drink alcohol. Although it was an eighteenth birthday party and a rite of passage for my son from childhood to adulthood, in many ways we handled it a little bit like we would have handled a child's party. We made sure that there were lots of activities and food. My wife, Sylvia, is particularly skilled in this way. Although it was officially an eighteenth birthday party, with most of the attendees being 18 or very close to it, they responded well to being given lots of things to eat and to being treated at that level. In that way we were able to minimise the risk of alcohol. I remember Sylvia hiring a chocolate fountain, which was particularly appealing to the young ladies who attended. It involved chocolate and oil and turning the chocolate into a liquid. I cannot think of a better stomach lining! It was mixed with lollies and marshmallows. That is not a bad practical strategy. It would not stop a full-scale riot if people are intent, but it would assist on the more domestic level of youth management. We also took the precaution of hiring a professional security guard. I am very pleased to say that there were no gatecrashers. The one person who imbibed too many alcoholic beverages was certainly over age. That one person fortunately just got quieter and quieter. Hon Kate Doust is giving me a bad look. That person was not 52, 53 or 54 or whatever I was at the time! There was one attendee a little bit over 18 years who did have too much to drink, but he went quietly about his business and did not become aggressive in any way. His quietness was probably the reason that the level of his alcoholic consumption escaped our notice. Having a professional security officer there is a very good backup. I spent much of the evening out the front chatting to the security officer. He was a very nice fellow; I enjoyed the discussion and, luckily enough, we were incident-free.

These precautions are worthwhile taking. Sadly, they will not avert every situation, but they might be of assistance in reducing even the minor incidents that can be unfortunate for the people concerned. I am saddened to consider the report that came through of the young lady who died in Queensland recently. I did not read it in detail, but it sounds like she fell off a balcony. Therefore, there does not need to be a full-on riot for the combination of young people and alcohol to be dangerous. I must hasten to add that I am not aware whether the young lady who lost her life by falling off a balcony had been drinking at that stage, so it may just happen—people can fall off a balcony perfectly sober if they are unfortunate enough.

I am pleased to support the legislation. On balance I am convinced that it will have a beneficial effect. It is very, very important to remember that at best it is a partial solution to the objective of preventing young Western Australians from becoming a danger to themselves and to others. I was very concerned to hear that the resources for police and community youth centres may be effectively reduced. I have not thoroughly examined this proposition, but I heard that the capacity of police officers to be actively involved in the police and citizens youth clubs may be reduced. I think that would be a very serious backward step; it would be a great pity if we made the small forward step of this legislation whilst reducing the connection between police and community youth centres and active police officers. One of the great skills held by the best police officers is the ability to use a degree of tact to disarm a situation and to reduce heightened tensions when they find them. That skill would be enhanced by the police officer getting to know the young people in their district on a personal level. For any strategic task it is very important to have clear intelligence, so if through a police and community youth centre there is an opportunity for police officers to get to know the young people in their district, it is useful, as is the fact that the police and community youth centres provide very important constructive activities for young people to be involved in. I am firmly of the view that destructive activities are far more likely to occupy the time of someone who has insufficient constructive activities to pursue, and I strongly urge anyone who has an influence over these decisions to ensure that the police and community youth centres are properly resourced, and that the level of involvement of active sworn police officers in the police and community youth centres is enhanced, because I think the relationships that can be built from that are likely to be positive, to make disturbances a less frequent occurrence and to give police officers active intelligence they can use in pursuit of their duty.

It is very important that we as a state remember that we have a prime responsibility for keeping the peace and that we have legislative backing for our police officers. I acknowledge this bill before us will add to the repertoire that police officers can use in the field. But, most importantly, we have to ensure that there are sufficient police officers to be able to perform their duty. I understand that it has been a practice for many decades for new police officers to be partnered with experienced police officers. In that way the benefit of the experience of a police officer can be shared with the new police officer. The training time for a police officer is

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quite short and I am sure that the many skills and the great wisdom that they need to perform their duties well are more than what can be absorbed during the short period of their formal training. I think the process in which a relatively inexperienced police officer is given the opportunity to work closely with a more experienced police officer is one of great importance in maintaining the quality and effectiveness of our police force. I have heard—this is no more than hearsay; I am not in a position to know—that a problem is developing whereby fewer experienced police officers are available to partner with the new recruits. This, if it is true, is a concern, and when we talk about the more experienced police officer, it is a matter of quantity as well in the sense of not only the quantity of officers, but the quantity of years of experience that they have had. In times when there was a more content and stable police force, there may have been officers available with 15 or 20 years' experience who could be partnered with a new recruit. With many police officers leaving, even the more experienced officers will be less experienced than they would otherwise have been and therefore, perhaps, less effective as mentors for newly recruited police officers.

I have had the good fortune of being invited to the graduation ceremonies at the Police Academy for police officers who were recruited from other jurisdictions around the world—most often from the United Kingdom, which has the benefit of a similar legal system to Western Australia's, but I also remember one gentleman from Singapore and there was another from the Republic of Ireland. These officers were of benefit. They had a local training course to make sure they were ready for those local conditions, but again, if we are going to be effective in keeping the peace, we need to make sure that the police officers are given sufficient numbers so as not to be overwhelmed by the problems that they confront, and they also need the opportunity to learn from the experience of officers who have been in service for a long time. One of the attractions of recruiting police officers from other jurisdictions is that the different nature of experience that such officers must have had by servicing their jurisdiction of origin is a different type of experience from, and a useful addition to, the total body of experience, skill and wisdom in our Western Australian police force.

We are confronting a very serious problem. Perhaps the experience of our younger times is that a person was more likely to have had their rationality and behaviour impaired by overindulging in alcohol and, to a degree, there is a certain predictability about types of behaviours that follow from someone overindulging in alcohol, although alcohol certainly affects different people in different ways. I believe that some of the illegal drugs now used have a characteristic of inducing aggression in the users, which adds to the unpredictability involved and makes the task of keeping the peace in our state more difficult. In my mind this further adds to the challenge to our police force. I hope the resources are used in this state to make sure that police officers are thoroughly educated about the characteristics of some of these drugs and how they might bring out various forms of unruly behaviour in people. Having a very professional, wise, highly skilled and knowledgeable police force is very important in the pursuit of the objective of keeping the peace.

I hope that the ministers of the Crown attendant in this chamber, in working with their colleagues in the cabinet, will take this message back, as well as the thoughts that I and others have shared today on this very important issue, with a view to enhancing the effectiveness of the work of our police force and others in the community towards that very important objective of keeping the peace. Mr Deputy President, I thank you for your attention to my comments.

**HON JON FORD (Mining and Pastoral)** [2.20 pm]: It is with some concern that I rise today to make a contribution to the second reading debate on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. I understand the government is doing what it was elected to do, which is govern, and it has made a judgement on managing what it perceives—it is a perception propagated by some of the media focus, I suppose—as being a major issue that needs its own legislation; indeed, it plays on the fears ordinary people have about young people. I will talk about the community's fear of young people in a little more detail.

The opposition will support this bill, but having looked at Hon Giz Watson's amendments, I will be interested to see whether the house supports them because I think they are worth supporting. My general concern is that we are trying to, at best, crack a walnut with a steam hammer, and that more and more the government and the Parliament are making decisions based on slightly irrational assumptions, one of those being related to the fear of young people.

One of the things that really amazed me when I first came into this job was that in some quarters and some demographics of society there is a disproportionate—hysterical in some cases—fear of young people. An example of this was in Kalamunda, where I lived for a time, when somebody wanted to build a skate park. Members should have seen the opposition to the skate park. The whole idea of the skate park was to give young people something to do. There is the old adage of "idle hands are the devil's tools", so the thinking was if we keep the young kids busy, they will stay out of trouble. A contrary argument was put by opponents, who said that

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it would attract an unhealthy element of young people into the community—in fact it would concentrate them—which would cause them a problem. Of course, history has shown that not to be the case, and every time I go past the park that was, thankfully, built, I see very healthy physical activity occurring there.

Another element is that I think the police already have the powers to deal with most of these matters, although there are some exceptions; I will give some examples of areas in which they might not actually have the powers but they certainly behave as if they do. Police have an important job; for instance, if somebody hits a copper, they deserve to feel the full weight of the law, because the police do a difficult job. I do not know whether giving the police more powers will assist them. I think the police need assistance with their standing in the community, and to do that people need to support them; certainly public officers such as us need to publicly support them and help them become part of the community, as I have mentioned before and as I have just heard our Whip, Hon Ed Dermer, talk about. My first experience with the police was actually very positive; in fact, I have said that if it were not for Mr Archer, who was our local copper, I would probably not be standing in this place today; I would be standing in some other place.

**Hon Ed Dermer:** Some other institution?

**Hon JON FORD:** Yes; I would certainly be institutionalised, I think! So I have a healthy respect for police, and I certainly think their role in gelling the community is completely under-promoted. I think there are other ways of dealing with this problem.

On the other side, this bill does not provide parents with the skills to deal with these issues, and I will give members an example of how they might be useful. For a number of years my wife and I talked about when—when our children reached that stage—we were going to allow the first party in our house. When my eldest boy was about 17 years old it became obvious, from questions he asked, that the pressure was on for us to sort of go for a drive so that he could have some mates around. I was not too keen on that idea because when I was younger I had been involved in some experiences and I know how they occurred. But that sort of resolved itself because my eldest boy joined the Navy and it became the Navy's problem; it could look after him and his desire to have a few drinks with his mates at home! So that was okay. Then it came to my number two son, and we had a trial. My number two son wanted to have a Halloween party—we were living in Kalamunda at the time—and he told me he was going to have about eight or nine mates around, and it was more about the mates and the girls and it would be a quiet little thing out the back.

**Hon Simon O'Brien:** With a chocolate fountain, like at Ed's place?

**Hon Kate Doust:** No, a different kind of party, I think.

**Hon Ed Dermer:** I'm sorry I didn't invite the minister!

**Hon JON FORD:** So we took my daughter around to a girlfriend's place so she could play for a few hours, and we went round to a friend's place and had dinner. At about 10.30 pm we drove down our street and went past the house on the way to pick up my daughter and to see how it was all going. It was absolutely as quiet as a mouse—no problems—for the whole length of the street; in fact, I would have thought everybody had gone to bed in our household because it was like the lights were out. Anyway, we went down to the end of the street, picked up our daughter, came back around the corner, and as far as the eye could see on both sides of the road was car after car after car after car, with all these young men with cartons of beer on their shoulders all heading into our house! Every single one of them!

So how did that happen? That happened because one of the lads decided to nip down to the pub to buy some beer and bumped into another mate just on closing time. The mate said, "Where are you?" and the lad said, "We're at Ro's place", and the mate said, "Oh, party at Ro's place?" So the whole of the Kalamunda Hotel was heading into my home. How did I fix that? Luckily, I had worked as a doorman and worked with uncontrolled parties and been paid to deal with them—which is pub life—for a lot of my younger life, so I knew exactly what to do. So I grabbed the biggest and ugliest boofhead who had walked into my house and said, "Mate, there's been a misunderstanding here; I'm expecting trouble. I'll give you another carton if you just help me get all these people out." We sent everyone out onto the street and I walked up and down and said, "Come on you guys, you're going to attract unwanted attention." It took about an hour but we got them all out. That would have been a completely different outcome if it had been somebody else who did not have that experience. They probably would have turned around and gone back the other way hoping it was not their house the cartons of beer were going to. I am not saying that that would have turned into an unlawful gathering or a riot, but it certainly had the potential to do so. That taught me a lesson when it came to the second party that was inevitably going to be held.

**Hon Adele Farina:** Don't leave the house!

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**Hon JON FORD:** That is right; do not leave the house, so I did not. If I remember correctly, it was a party for my daughter's eighteenth birthday. I invited a mate around to my place that night. The front veranda of the house was elevated, so we propped ourselves down with an esky between us, so that everyone who came in had to walk past us. We did exactly the same as a doorman does and said, "No; don't like you; don't care what you say; get out; get out." We sorted them out at the gate. I was expecting the odd protest from my daughter, but I did not get one. The basic rule was, if people came in with excessive amounts of alcohol and I did not like the look of them, out they went, which is exactly what happens in a pub. If the doorman does not like the look of someone or thinks they are "buzzing" a bit too much, he comes up with an excuse to guide them out or not let them inside, and he wins the battle. It is when they are inside that the battle is lost. We stayed on the veranda for the duration of the party and made sure they did not return to the Kalamunda Hotel before closing time. It gets down to teaching parents how to manage parties. We do not need a paid organiser or a paid security person to deal with them. We just need to understand how to control them. If we cannot do that, we just have to say to our children, "No party."

However, we all know that things can get out of control. Nowadays, with children staying at home longer and longer, when the kids are 19 or 20 years old and can look after themselves, mum and dad eventually get jack of it and decide to take a trip to Europe. One night, while sitting in a hotel, they decide to look at the live streaming of the Australian news and suddenly see their house.

**Hon Kate Doust:** Getting trashed.

**Hon JON FORD:** That is right. I still think that when the poor kids say they did not want all the people there and the police have them barricaded in the house trying to get rid of everyone else, the police have the powers to deal with those situations.

I do not think a great argument has been put for this legislation, although I understand why the government is reacting in this way. The classic reactionary situation is when Minister Ludwig was sitting at home watching a *Four Corners* program about live exports and an abattoir in Indonesia. My colleagues are wondering how the heck I have gone onto live exports when we are discussing out-of-control gatherings.

**Hon Kate Doust:** It's a good segue.

**Hon JON FORD:** Joe Ludwig closed down an industry based on an unchallenged television report, even though it was on an ABC program. What governments must recognise is that just because the media says there is a problem does not mean there is a problem. We have to test the situation and see whether the problem is so large that we need to use specific legislation to deal with it. I wonder what is the next bill that will be introduced, although I will not be here for it. I cannot imagine what legislation my colleagues will face pressure to introduce. Perhaps it will be special legislation to deal with things such as the Big Day Out.

**Hon Kate Doust:** It'll be micro-chipping the kids.

**Hon JON FORD:** That is right; it could be legislation around micro-chipping the children to keep track of them. Maybe there could be a governor on them so that parents could just push the button and they would stop. I will come back for that!

We all know how the legislative burden increases. I really like the idea of building relationships between our police force and the community rather than creating the perception that the police are given disproportionate powers to deal with issues when they already have the powers, because people will then play the victim. It is not about preserving law and order in society; it is about a police state. One of the great examples of a community embracing the police and the police embracing the community that I have seen is in Newman, one of my constituent towns, which I hold very dear, where they now hold the Bloody Slow Cup, which is a police legacy fundraiser. I have watched it grow and seen the whole community participate in a commemorative service in honour of some local police officers who died while carrying out their duty. In doing that they were acknowledging that that is what happens to police officers from time to time. As I said before, if somebody assaults a police officer, they should cop the full weight of the law because the police need that support.

In his second reading speech, the minister states —

Under the Criminal Investigation Act 2006, police officers have various powers to enter places or vehicles without a warrant. However, these powers are not adequate to deal with all aspects of an out-of-control gathering.

The second reading speech does not make a case for the legislation. That is the only qualifying statement. It simply says that powers are not adequate to deal with all aspects of out-of-control gatherings. It further states —

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The same is true of common law powers conferred on police officers to deal with breaches of the peace. I have been in places where the police have walked in and just switched off the music and told everyone to get going. I do not know whether they had the powers but that approach was pretty effective; it shut the place down.

The scenes we see on television of gangs of youths chucking bottles at police surely can be defined as riots under the act. I do not like how the legislation provides that police can decide that a gathering could turn into an out-of-control gathering. I will give an example of that. I was involved in a joint fundraiser for a local sporting club to commemorate the death of one of their young colleagues in a sporting accident. They hired a band, got all the permits from local government and got their liquor licence. The event was held on an oval, and somebody across the road complained and the police came and shut down the whole thing. Even the local government people who gave permission for the event said, “We don’t know what they complained about.” The police told us they took that action because they had received complaints. They obviously had the power to do that. I can tell members that I was there and nothing unlawful was happening. In fact, the young people involved had gone over the top in getting the appropriate licences and hiring a bar manager et cetera. I think the police already have the power to control gatherings.

I said at the start that people, especially older people, have a disproportionate fear of young people, and they ring the police and complain about noisy parties. I can tell members that unless there is a good relationship between police officers and the community, which is very difficult to establish in the metropolitan area, if the police turn up at a gathering, it is akin to throwing kero onto a fire. I am worried about that. I will be listening to some of the answers that are given during the committee stage, and perhaps I will also ask some questions about that.

The second reading speech also states —

In addition, a person who is a responsible adult in relation to a child who organises a gathering that becomes an out-of-control gathering, and who gives that child permission to organise such a gathering or who permits the gathering to occur, will also commit an offence.

What about that case with my second son? Everything was calm and five minutes later everything was a disaster.

**Hon Adele Farina:** It was a disaster waiting to happen.

**Hon JON FORD:** It was a potential disaster. I had certainly made the call that it was a potential disaster. Does this bill mean that if I had not been there and the party had gotten out of control, I would have been liable? What are we trying to do to society? Perth is described as Dullsville. I think we are committing ourselves to too much legislation, given that the police already have powers to deal with this issue. I cannot imagine the police asking for these powers, but that must have been the case. I am not implying that the police will abuse the legislation.

**Hon Adele Farina** interjected.

**Hon JON FORD:** I do not think they will be able to apply it; that is true. Interestingly enough, somewhere in the next four years a question will be asked about how many times the legislation has been used. So we will see. I do not think a case has been made that the bill is required. I do not think it is required but, having said that, I understand that the government has been elected to govern. The amendments that have been offered up by Hon Giz Watson will go some way to making the bill better. If I really thought it was going to be abused, I would be jumping up and down and saying that we should not have it. But I do not believe that is the case. The hint about why this bill has been introduced is in the following statement in the second reading speech —

Out-of-control gatherings impose a heavy burden on police resources. This is because large numbers of police officers, together with police vehicles, police dogs, police horses and the police air wing, are being utilised to quell unruly disturbances in suburbs across the metropolitan area.

Do members really think that this bill will diminish the pull of an unruly party? I do not think so. From my experience when I drove off to pick up my daughter, nothing was happening; it was all quiet. But, unbeknownst to me, a young lad was telling some guys down the pub that he was at a party at Ro’s place, and literally five minutes later when I got back, there were hundreds of kids going into my house. I do not think it will make one iota of difference to police resources. I do not think it will help parents; in fact, it is scaring parents. Hon Kate Doust has children of an age at which they want to have large unruly parties at home.

**Hon Kate Doust:** Parties, yes, but I do not know about “unruly”.

**Hon JON FORD:** That is right. Perhaps I should have rung her when Rohan was having his party and she could have stopped it!

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I hope the bill will prove to be a fizzer. I hope it does not prove to be a step case in dealing with another issue in society that we feel uncomfortable with because it makes a good news item and so we then have to pass legislation to deal with it. In the 12 years that I have been in this place, I have watched that happen, both when we were in government and now under the Liberal–National government. I will ask some questions during the third reading debate about the extent of the liability and about resourcing, unless other members beat me to the punch.

I ask the government to properly consider the amendments on the supplementary notice paper. I ask the house to be cautious about supporting this bill. Certainly, whichever party is in government after the election—I am pretty confident that it will be us; members might find that a strange thing for me to say—and ends up on the Treasury bench should avoid doing this because it leads to poor legislation and it does not do anything to support the people we purport to support; that is, parents and the community. There is nothing in the bill to train parents or to give them the resources to deal with this issue. It scares them because there is a big stick attached to something that they have no control over. Do I think a court will ultimately find a parent in my position guilty? No, I do not. So why are we dealing with it? With those comments, I will sit down and listen to the other contributions.

**HON ADELE FARINA (South West)** [2.46 pm]: I rise to comment on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. In recent times, we have seen an alarming increase in the number of out-of-control parties and an escalation in antisocial behaviour, property damage and violence resulting from these out-of-control parties, causing fear in the community. The bill seeks to respond to this recent development. We all agree that out-of-control parties are unacceptable. There is no question about that. Certainly, every member on the opposition benches has made that very clear. We do not believe that out-of-control parties are acceptable. Certainly, we have heard from other members that gatecrashing parties is not new. However, the advent of social media has added a new dimension to gatecrashing that enables a message to get out to a greater number of people more immediately than ever before, resulting in a greater number of gatecrashers descending on a party at very short notice. Personally, I do not understand gatecrashing. I do not understand why anyone wants to show up at a party that they have not been invited to; I do not get it. I also do not understand the need to tweet or Facebook one's every thought or activity. I just do not understand it. But I accept that I appear to be in the clear minority on that point and everybody else seems to be doing it.

As a result of these changes, we as legislators are facing a new set of circumstances that we need to understand if we are to be effective in legislating against certain harms. Valid questions have been raised about whether the law will be effective in addressing the issue of out-of-control parties, and I will come back to this issue a bit later.

The bill amends the Criminal Code to create two new offences related to organising an out-of-control gathering. In addition, it amends the Criminal Investigation Act 2006 to give police new powers to deal with out-of-control parties or gatherings and creates penalties for failing to comply with an order made by police. Interestingly, the bill targets the organisers of these gatherings. Proposed section 75B(2)(a) makes it an offence to organise a gathering that becomes out of control, and proposed section 75B(2)(b) provides that a person who is a parent, guardian or other responsible adult of a child who organises a gathering that becomes an out-of-control gathering and who gives that child permission to organise a gathering or permits the gathering to occur will also commit an offence. An “out-of-control gathering” is defined as a gathering of persons in a place or vehicle that satisfies a number of key elements. It is a gathering of 12 or more persons of whom two or more persons associated with the gathering engage in certain conduct. The bill identifies 14 types of conduct. A further requirement is that the conduct of persons at the gathering causes fear, alarm or substantial interference with other persons' activities or movements. Both offences carry penalties of up to 12 months' imprisonment and a fine of \$12 000. In addition, it is at a court's discretion, in relation to the latter offence, to order the person to pay all reasonable expenses incurred by police in responding to the out-of-control gathering.

Police will also have the power to terminate the gathering and order the crowd to disperse. Failure to do so may result in on-the-spot arrests. A person found guilty of failing to comply with an order is liable to 12 months' imprisonment and a fine of \$12 000. In circumstances of aggravation, the penalty is three years' imprisonment and a fine of \$18 000. It is a defence if the organiser can prove that they took reasonable steps in the circumstances to ensure that the gathering did not become an out-of-control gathering. A number of assumptions about out-of-control parties were made by the government in drafting the legislation currently before us. Not all of these assumptions hold true in all circumstances, which means that the proposed law before us is of limited value.

I am pleased to be able to quote from an article in the *Bunbury Mail* dated 15 August 2012 titled “Bunbury Party hosts to be held liable”, in which the Bunbury police officer in charge is quoted as saying —

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“There are very few reported in Bunbury,” ...

He was referring to out-of-control parties. But he also went on to comment —

“When it is advertised on Facebook that’s when it becomes a huge problem.”

Hon Ljiljanna Ravlich referred to an out-of-control party in Australind in October this year. About 100 youths aged 14 and 15 turned up to an 18-year-old’s party. It was reported that police turned up at the party because of noise complaints from neighbours. It took about two hours to break up the party, during which time some youths threw bottles at police. The invitation to the party was posted on Facebook but was removed soon after. When police arrived, due to the number of youths involved, it was determined that it was impossible to take all the youths back to the police station and they were ordered to move on. As a result, minor disturbances, including noise complaints and the breaking of glass, were reported to police for the next couple of hours after the party was broken up and as the youths dispersed through the neighbourhood. This behaviour is completely unacceptable.

Some immediate questions spring to mind when looking at this particular situation. What are 14 and 15-year-olds doing on the streets? Where are their parents? What are 14 and 15-year-olds doing drinking on the streets? Again, where are their parents? Although I do not want to be too critical of the police, who were clearly outnumbered and trying to do their best in a difficult situation, I am also concerned that 14 and 15-year-olds who had been drinking were being dispersed by police as opposed to being taken into custody and the Department for Child Protection called. That is what this legislation allows to occur. Although I understand why it is necessary to break up a party and disperse everyone, if we are dealing with people of driving age, who have been drinking and are getting into cars, the very act of dispersing the crowd creates a range of repercussions. I am staggered to know that in a lot of these cases it is 14 and 15-year-olds who are descending on parties as gatecrashers. In order to disperse, these youths will be walking through the neighbourhood. I do not actually think it is acceptable in any circumstance for police officers to disperse 14 and 15-year-olds, much less 14 and 15-year-olds who have been drinking. That is actually dispersing the problem throughout the neighbourhood. I do not think that is an adequate solution, but that is the solution provided by this bill. It is of great concern.

I do not have a problem with the parents of the gatecrashing youths in this instance being held responsible for the damage caused by their children and being held to account for why their children were on the streets and drinking under age. I do not have a problem with the parents of those gatecrashing youths being made to meet the costs of police responding to the call-out. I am not so sure, however, that the 18-year-old who hosted the party, or that 18-year-old’s parents, should be held accountable, based on the limited information available in the media on the incident. Certainly, the party should not have been advertised on Facebook, but we know from reports in the newspaper that steps were taken to immediately remove the posting on Facebook after it had been posted. It is unclear in this particular circumstance whether that would have been a sufficient defence, under this legislation, for the 18-year-old who called the party and the youth’s parents. When we pass this legislation today, we will still be unclear about that. We are handing that discretion over to the courts to apply. It is unclear how that discretion will be applied.

In another instance in Greenwood—which is outside my electorate—a quiet, alcohol-free party for a 16-year-old turned into an out-of-control party when 15 people, including one armed with a machete, turned up and tried to force their way into the party. In a newspaper story on this incident, the mother said that although she welcomed the new legislation, she felt it may not be enough to prevent future incidents. She is quoted as saying that the gatecrashers came with the intent to cause damage and assault people. This is not a situation that would necessarily be covered by the bill before us. It clearly highlights the deficiency of this bill in not addressing the underlying social ills that cause this sort of behaviour in society. In this instance, the 15 gatecrashers came armed with the intent to cause damage and fear and to disrupt the party—I assume just because they could. The gatecrashers certainly were not known to the person organising the party.

In another instance, a dozen people celebrating an eighteenth birthday party quickly became out of control when about 13 youths gathered outside the home. That number eventually grew to about 150 people. The situation escalated, however, when the gatecrashers were asked by the organisers of the party to leave and to clean up their mess. As a result of the organisers of that party trying to be responsible parents, the father of the birthday girl ended up being glassed in the face, the mother was terrified, and obviously the neighbourhood was subjected to a lot of antisocial behaviour. The party was not advertised on Facebook but some friends had discussed the party online. There is no way that an organiser of a party can control such online conversations or what invitees to the party might do by way of posting party details on Facebook.

**Extract from *Hansard***

[COUNCIL — Tuesday, 27 November 2012]

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Hon Norman Moore; Hon Kate Doust; Hon Giz Watson; Hon Jon Ford; Hon Dr Sally Talbot; Hon Philip Gardiner; Hon Matt Benson-Lidholm; Hon Ljiljana Ravlich; Hon Ed Dermer; Hon Adele Farina; Hon Sue Ellery; Hon Ken Travers; Hon Michael Mischin

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It is interesting that in all these instances I have referred to, the out-of-control party actually occurred outside the party venue. The party venue was inside the house or in the backyard; these gatecrashers turned up but they did not make it inside the party at all. This occurred outside on the streets. It raises further questions about the extent of the additional powers we are giving police through this legislation. Hon Jon Ford made the point that if a party is not out of control, if it is just a little loud, why would police need the power to go into a house and break up the party if it is not actually causing a problem? It raises questions. In each of these situations I have referred to, the out-of-control gathering happened outside the party venue. As I have said, this bill will not stop out-of-control parties. It will not even apply in most of the circumstances of out-of-control parties.

Many lawyers and youth groups have commented on the many evidentiary problems with this legislation, which will, in their view, render it unworkable. A number of members have also spoken to this point. I do not intend to go through all those issues again. But there are some very real evidentiary issues with the way in which this bill has been drafted. For example, one lawyer has been reported in the papers as saying that it will be very difficult for the police to prove that the offender who has been charged actually heard the move-on order made by the police. I tend to agree with the lawyer who made those comments. I think that will be a very difficult evidentiary point for the police to prove, especially if there is a large crowd and a lot of noise. I will, therefore, be interested to hear how the Attorney General thinks police officers will be able to establish that the move-on order was heard by the person who has been charged. I will also be interested to hear the Attorney General's views about all the other evidentiary issues raised by members, youth groups and the various lawyers who have expressed concerns about this bill. As I have said, I will not take up the time of the house by repeating every one of those concerns. But there are very real evidentiary concerns about this bill, and I trust that the Attorney General will address each of those; if not, we will have to deal with each of those in turn in Committee of the Whole when we consider the bill in detail.

Nothing in these laws addresses the underlying social ills that lead to groups of people engaging in this unacceptable behaviour. I think that is a real deficiency in the bill. As legislators, one of our roles in making good laws is to understand the cause of the harm that we are trying to fix, because only through that process will we be successful in addressing the harm. I feel that we have not really done that with this bill. We are not addressing the underlying social ills. Why are young people drinking to such excess? Why do people think that allowing 14-year-olds and 15-year-olds to roam the streets is acceptable? Where are their parents? Why are their parents not being held to account for the behaviour of their children? Why are police officers being given powers by this state to disperse 14-year-olds and 15-year-olds throughout the neighbourhood, rather than take them into custody and provide those children with the protection that they clearly need, especially when many of the children in this situation are under the influence of alcohol or drugs, or both? To me, that is a very concerning matter. It concerns me that the Minister for Child Protection has not made a comment on the issue of dispersing 14 and 15-year-olds throughout the neighbourhood.

I have spoken about the very real incident that occurred in Australind, in which a large number of youths were dispersed. Although I am not being critical of the police, because, as I have said, they were completely under-resourced and outnumbered, and probably did not have any other option, the fact is that police officers should not be put into that position. We should properly resource our police officers. Our police officers should not have to be dispersing 14 and 15-year-olds who are under the influence of alcohol or drugs, or both, throughout the neighbourhood. They need to be given other means of dealing with that situation. So it is disappointing that this government is failing to do the heavy lifting that is involved in addressing the underlying social ills and prefers to simply opt for a bandaid solution—and one that does not stick all that well in this instance.

Members have also referred to how the measures in the bill are overly punitive, and have said that young people cannot afford to pay the fines and the police costs. I want to reiterate that point and make it very clear that I share the same concern that has been expressed by other members. I am very concerned about the impact that the conviction of a child may have on the future education and employment of that child. We need to remember that in a number of these circumstances, we are dealing with very young children—14 and 15-year-olds. These young children are not necessarily in a position to make the right judgement calls; and, if they make one poor judgement call, that may impact on them for the remainder of their lives. We need to ask ourselves whether that is the appropriate response that we should be making, when clearly their parents were not watching out for them in the first place because otherwise they would not have been on the streets at that age.

The point has also been made that when we are making laws, an important matter to which we should give consideration is the deterrent factor. Clearly, in the case of this legislation, the deterrent factor will be very limited, because it is not likely that 14 or 15-year-olds who engage in this sort of activity will even know that this law exists, much less consider the ramifications if they are charged for engaging in an activity that is an

**Extract from *Hansard***

[COUNCIL — Tuesday, 27 November 2012]

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Hon Norman Moore; Hon Kate Doust; Hon Giz Watson; Hon Jon Ford; Hon Dr Sally Talbot; Hon Philip Gardiner; Hon Matt Benson-Lidholm; Hon Ljiljana Ravlich; Hon Ed Dermer; Hon Adele Farina; Hon Sue Ellery; Hon Ken Travers; Hon Michael Mischin

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offence under this law. So we really need to think about what we are trying to achieve with this legislation, because there is no deterrent factor with 14 or 15-year-olds in this circumstance.

I would also like to point to a comment that was made by the Minister for Police on the issue of imposing such punitive measures on young people. The minister has commented that young people who host parties will need to enter into arrangements to pay. As we have heard from the examples that I have provided, we are talking about 14 and 15-year-olds. Fourteen-year-olds cannot legally be employed in this state, so it is beyond my understanding how they will be able to make arrangements to pay any punitive fines. Therefore, I hope the Attorney General will address that issue. We have also heard evidence from other members that people as young as 12 years of age are engaging in this sort of activity. Again, can we really expect 12-year-olds to enter into arrangements to pay a fine if they are found guilty of an offence under this bill? Will a court be able to find a 12-year-old guilty of an offence under this bill? There are a lot of issues about legal competence that will come into play in this instance.

I have already made some comment about my concerns about move-on notices. I would like to reiterate that, in the case of very young people, there is a real problem with the proposal to issue move-on notices rather than take those young people into protective custody, which I think would be a far more desirable outcome.

I would also like to comment on the lack of consultation that has occurred in the drafting of this bill. Again, as usual, this government has acted in haste with a kneejerk reaction to a situation that has occurred in the community, rather than give considered thought to the issue and try to identify and address the underlying social ills. The quick bandaid approach is always the approach that this government goes for. This Parliament has appointed a Commissioner for Children and Young People to provide guidance to this Parliament and to government on how the laws that we make impact on children and young people. The commissioner has very responsibly designed a set of guidelines for government agencies to follow when drafting laws that may impact on children and young people. But time and again we hear from this government that it has not applied the commissioner's guidelines in its drafting of this bill, and sadly this is yet another instance in which this has occurred. It makes little sense to me that we would appoint a Commissioner for Children and Young People if we then do not follow the advice offered by that commissioner on a very important issue that will affect children and young people. It is also very disappointing that the government has not sought to consult children and young people in the drafting of this bill, because had the government done that, we might have had a much better outcome in this bill.

Some members have also commented on the fact that humans are social beings, and social interaction is important. There is a concern that this bill will lead to parents thinking twice about holding parties for their children. That is a valid concern, and it would be very disappointing if that was one of the outcomes of this legislation. It also concerns me that one of the defences suggested in the bill is parents engaging security guards as security officers to police parties. That is great if people live in the western suburbs, have plenty of money and can afford to do that, but in a lot of parts of my electorate families just do not have those sorts of resources. Although I agree with Hon Jon Ford that people can use other family members and friends to assist with that task, let us not forget what happened to the father of the 18-year-old who was glassed when he tried to move people on. We really need to deal with the underlying social ills here if we are going to address this issue. This bill will not achieve that.

I also would be interested to hear from the Attorney General what analysis has been undertaken by the government that has led it to the position of introducing this bill into the Parliament and why, in its view, this bill is the solution to the problem that we are trying to address. I would be interested to know what the government knows about the age group of most gatecrashers at these out-of-control parties. Are we talking about 14 and 15-year-olds in most cases, or are they much older? How were the parties that were out of control organised? Is there a clear link that all the parties that got out of control were notified on Facebook or through some other social media? We are blaming social media, but do we know that it is actually involved in each of these instances? I would be interested to know how they became out of control. In a number of the situations that people have referred to, the parties escalated and became out-of-control parties at the point at which the move-on order was made, either by police or by the organisers of the party, so we need to understand what is actually happening here. We also need to know who contacted the police. In most instances, was it the organisers of the party or the neighbours? From the examples that have been reported in the newspaper, in many cases the organisers were as much the victims of the antisocial behaviour, the violence and the abuse as the neighbours, yet this bill holds the organisers totally responsible.

My concern with this bill is that by not having properly analysed the real cause of the problem that we are trying to fix and not having addressed those underlying social ills, this will be yet another bill which seeks to address law and order issues but which will sit on the statute book, unused by the police, because of the difficulties in

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meeting those evidentiary requirements outlined in the bill. I share my concern that this bill will have very limited impact, if any at all, on dealing with out-of-control parties in the community.

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [3.12 pm]: I want to make a few comments on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012 and pick up on a theme that Hon Adele Farina just touched on. It is appropriate to put in place measures to ensure that the community is protected from the kind of antisocial, aggressive and, indeed, violent conduct that we have seen emerging in our suburbs from some of these parties that have got out of control. My essential concern about the bill is that it is not part of a package of measures to address what I think is the real problem. What we have seen on our televisions are pictures of some young people destroying property, terrifying communities, attacking other partygoers, attacking the party throwers and, indeed, attacking the police.

It is important to put it in context. I think others have made the point that we are not talking about all young people; we are in fact talking about a very small group of young people. The Australian Bureau of Statistics figures for June 2011 tell us that young people—that is, 12 to 25-year-olds—make up 19 per cent of our population in Western Australia. There are about 459 000 of them. WA has the fastest-growing population of young people, and it is projected that by 2030 there will be more than 550 000 12 to 25-year-olds. Therefore, the proportion of those current 459 000 whom we see on our TVs is tiny. Nevertheless, they are causing a hugely disproportionate amount of distress and concern for those localities affected by their behaviour.

The pictures on our TVs of those young people destroying property, terrifying communities, attacking others at the party, attacking homeowners and attacking the police are not pictures of young people who are stone-cold sober. Inevitably, at these events we are seeing young people who are drunk; they are adversely affected by alcohol. Some of them are also affected by drugs. Some of them, as Hon Adele Farina pointed out, are affected by both drugs and alcohol. Inevitably, the ones we see causing the mayhem, the distress and the violent behaviour are drunk. They have consumed excessive amounts of alcohol. The legislation that we have before us gives police certain powers and introduces new offences, particularly for those people who organise the parties and the people whose homes they are at. In addition to those measures, which are important to stamp out the problem once it occurs, I think it would have been a much more effective outcome if this legislation was part of a package of things that address the issues associated with how those young people get the alcohol in the first place. That means looking at some tough things around alcohol licensing provisions.

Some important work is being done in this area. I know that the McCusker Charitable Foundation is leading the charge, and it is working collaboratively with government, as well as others, on this. We know what we need. All the research is there and it is clear: we need a mix of interventions. Using the police resources to get these people off the street and to protect the community once the party has got out of control or is happening addresses the immediate need once it has happened. That is a pretty expensive solution, because all the equipment and the vehicles for the police officers are quite an expensive option. Nevertheless, it has to happen because people do not want to live in the vicinity of one of those parties at which we see pictures of young people who are deeply affected by alcohol throwing glass, rocks and all sorts of things. However, if we are serious about doing something about it, we need to do more than just send the police to clean up the streets. We need to do something about licensing measures and how these young people are accessing the alcohol. We need to do a lot more about education, not just for those young people, but also for their parents. If we are going to keep allocating resources to police to remove the results of the problem, it will just keep growing unless we seriously do something about alcohol.

Members will be familiar with the Australian Institute of Criminology, which produces papers on a range of matters related to the justice system. Its series of “Research in Practice” papers from December 2009 looked at key issues in antisocial behaviour. The thing is that what it found is not rocket science; we know it. That is why it is disappointing that the bill before us is not part of a package of across-the-board measures. Summary paper 5 found that, in respect of young people, a certain level of involvement in antisocial behaviour is common amongst Australian adolescents. However, not all youths are involved in antisocial behaviour all the time. We know that here in Western Australia we have 459 000 young people aged between 12 and 25 years. It is a tiny proportion of those young people who are involved in this antisocial behaviour. An analysis of the key indicator data for antisocial behaviour suggests —

- Male youths commit more offences than female youths, but the level of offending among males has decreased over time, whereas the rate of offending by females has increased.
- Many young people experiment with drugs, particularly alcohol, tobacco and cannabis, and a smaller number of youth regularly use drugs.

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- Delinquent and aggressive behaviours are the most common behavioural issues reported by young people as being related to mental health problems.

Research into the prevalence of antisocial behaviour has often used self-report data in which young people themselves identify the types of behaviour they have engaged in over the period of the study. While this report notes that the study provides limitations to the data, it does provide valuable information on the extent, nature and patterns of antisocial behaviour over a period of time. The longitudinal study in Victoria followed the progress of more than 1 000 adolescents, interviewing them at 13 to 14 years of age, which it defined as early adolescence; at 15 to 16 years of age, which it defined as mid-adolescence; and finally at 17 to 18 years of age, which it defined as late adolescence. The adolescents were asked to identify the kinds of antisocial behaviour they had engaged in over the previous 12 months. The research concluded —

- The most prevalent types of antisocial behaviour in early adolescence —

That is, the 13 to 14-year-olds —

include fighting ... alcohol use (25%), theft ... and property damage ...

- These behaviours continued into mid-adolescence, along with high rates of cigarette use ... and skipping school ...

In late adolescence, which is the 17 to 18-year-olds, alcohol use had jumped from 25 per cent to 84 per cent. That is the group I think we are seeing most of when we see these pictures on our televisions of young people excessively influenced by alcohol and causing mayhem in the community. Fighting at 23 per cent, property damage at 20 per cent, marijuana use at 19 per cent and driving a car without permission at 15 per cent were the most common types of antisocial behaviour. The report continues —

- Some acts, such as alcohol or cigarette use and skipping school, were so common as to almost appear normal.

Alcohol use amongst that group therefore was so common that it appeared normal. The report continues —

- Around half of all adolescents reported involvement in at least one form of antisocial behaviour ... although only a minority engaged in multiple types of behaviour.
- Males were significantly more likely to engage in almost all types of antisocial behaviour, particularly violent behaviour, although there were no differences in substance use between males and females.
- ... 12 percent were involved in persistent antisocial behaviour and the remaining eight percent ... were involved in experimental antisocial behaviour (ie the behaviour desisted over time).

In most cases, involvement in antisocial behaviour is a transient period for teenagers, with a small proportion of individuals continuing on and committing further or more serious offences into adulthood ... Researchers have sought to distinguish between those individuals who are only involved ... for brief periods and more long term offenders.

The researchers distinguished between those involved for a short period of time and those who persist with antisocial behaviours from early childhood through to adulthood, and continue —

These distinctions are useful in directing investment in crime prevention to target those individuals who are likely to have continuing involvement in antisocial behaviour.

The report goes on to refer to levels of alcohol and illicit drug use amongst young people and the relationship between substance use and antisocial behaviour, and states that these things are of particular concern. It continues —

Research ... found that nearly one in 10 young Australians had been involved in some form of antisocial behaviour in the preceding 12 months while under the influence of illicit drugs. The most common of these behaviours were verbally abusing someone, —

That is what we see on the TV footage of these events —

creating a public disturbance —

That is what we see —

and damaging property. Similarly, there is strong evidence that alcohol and binge drinking increases risk taking and impairs decision making. Young and inexperienced drinkers may be particularly

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susceptible to engaging in risky or antisocial behaviour they would otherwise not engage in while under the influence of alcohol ...

That is one bit of research that summarises loads and loads and years and years of research. It is all there. It is clear. If we are serious about doing something about stopping the problem rather than paying for the most expensive solution by sending the police out, we would actually be doing a lot more than we are doing about addressing access to alcohol, and we would be doing a lot more than we are doing about the kinds of education and limits on access to alcohol.

Relevantly for today's debate, members I am sure would have read the "Opinion" piece in *The West Australian* today by June Oscar, who talked about the success of the restrictions put on alcohol licensing in Fitzroy Valley. When I was the Minister for Women's Interests, I visited June and her group in Fitzroy Valley—I think it was in 2007. They described for me the kinds of fights they had within their own community and the fights they had with alcohol retailers when they demonstrated that they were serious about making these changes, to the point that they described certain people who might have been regarded as community leaders making it clear to June and the other women that there were guns in their cars. That is how threatening it got for these women who took a step on behalf of their whole community to do something about the abuse of alcohol. The piece that June wrote for today's *West* makes it clear that it has been a raging success. In fact, within a matter of months, presentations at the hospital and call-outs to police diminished dramatically. In fact, within weeks and months of the changes to the liquor licensing provisions in that community, children who had not regularly attended school were regularly attending school because they had slept and their carers were sober enough to provide them with breakfast. Those things made an immediate and dramatic change. If people like June Oscar and her colleagues can be brave enough to confront people with guns in their cars to do something about their community, I think in metropolitan Perth we can do a bit more about really tackling the issue of how young people are accessing alcohol; about where we are putting alcohol outlets; about what we are doing to make sure staff are properly trained and resourced to know when they should and should not be demanding identification to sell alcohol; and about educating parents on how sensible it is to buy a six-pack versus a carton for their 17-year-old. There is a big difference between giving a 17-year-old a six-pack versus a carton. Just things like that will make a difference to the number of young people who are able to get as off their face as those ones we have seen on TV.

The statistics and the research are really clear. I think that over 80 per cent of Western Australian police call-outs are related to alcohol. Whether those call-outs be for family and domestic violence or out-of-control young people, we know that we must do a lot more about alcohol.

I read a report that I found quite useful, as it was a report done from a culture that is not dissimilar to the Australian culture in the sense of its reliance on alcohol—that is, Scotland—and the culture that people cannot really be having a good time at an event unless they are consuming alcohol. That report found what I think is commonsense anyway and what the other researchers found; that is, we need a multiple mix of interventions to do something about it. It is no good just increasing penalties and giving the police more power without doing something about young people's access to alcohol and about education programs on how to minimise alcohol abuse. They are simple programs such as educating people who make a decision that they want their 17-year-old to learn to drink responsibly and get them a six-pack rather than a carton. Education programs like that are going to be the most effective.

The bill before us gives certain powers to the police to literally pick up, if you like, the mess off the streets. It is an expensive way to deal with the problem if we are not doing all of that stuff at the front end. That is the point that Commissioner O'Callaghan has made many, many times. His officers are at the back end of the problem. He calls for others to do more about the front end of the problem. I do think it is disappointing that this bill is not being presented to the WA community as part of a package of measures to address the front end of the problem as well, so that we are not just moving and debating legislation about giving the police more powers and in fact putting in place measures that may well have unintended consequences.

I have also heard the story of the young man who was concerned about what was going on at a party he was at; he rang his brother to come and pick him up because his brother could drive. His brother came and picked him up and they both got caught up in the violence of this out-of-control party. They were both approached and dealt with by the police after this young guy had tried to do the right thing. He wanted to get out of there, so he called his big brother to pick him up and they both ended up caught up in something they had nothing to do with. The parents got a call from the cops to collect their boys, when they had done nothing wrong; they had tried to get out of there. We want to make sure that we do not put in place legislation with those sorts of unintended consequences.

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The legislation puts in place certain measures for party organisers and it is appropriate that we require people to take responsibility for their actions. However, all those measures will occur after the event; it would have been better if the government had come to this place with a package that addresses young people's access to alcohol and education about it. If we had done that, we would have seen a much more effective public policy response to the community's genuine concern about the impact of out-of-control parties when a small minority of young people cause fear and mayhem.

**HON KEN TRAVERS (North Metropolitan)** [3:31 pm]: This afternoon we are dealing with the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. The long title simply states —

**An Act to amend *The Criminal Code* and the *Criminal Investigation Act 2006* and for related purposes.**

I argue that this bill fits into a category that we have seen an increasing prevalence of in recent times under the Barnett government—what I call headline legislation. It is my view that the eight-second grab was developed for this bill well before the legislation was drafted. The government develops its eight-second grab that it wants screened on Saturday night television. It gets that worked out and then it goes away and tries to draft a piece of legislation that is seen to somehow meet the requirements of that eight-second grab. Another element of headline legislation is that often, when we examine the detail of the legislation in this place, we find out that it does not do what the headline grab said it would do. The legislation often does not make a difference at all to the circumstances that the headline claimed it would address. It certainly does not go to the key underlying causes of the problems that the eight-second grab was seen to try to counteract. We also find with headline legislation that when we get into this place and we agree with the policy of the bill put forward by the government, but seek to examine the detail of the bill and to highlight points about whether the bill will achieve what the government sets out and claims it will achieve, we are given answers such as, “That will be subject to the interpretation of police officers on the beat.” In other words, it will not do what was intended. We are told that it will be dealt with through guidelines or regulations, but the government is unable to give us those explanations in this place today.

In some cases, it is fair to say that some of the headline legislation from the Barnett government has not resolved the problems; it can make the problems worse or have adverse impacts on innocent people for no good purpose. I think all of us accept that when we have law and order problems, there are times when we will have to have infringements upon ourselves for the greater good. However, when we do that, we need to be confident that those infringements will solve the problems that we are seeking to resolve. Another element of headline legislation is that it often creates a very drawn-out process. The eight-second grab is run for 18 months or two years before we see the legislation. Every couple of months that same problem occurs and we again get a headline grab. The same grab is drawn out over and again to maximise the media coverage available to the government on that issue.

Let us look at the policy of the bill. In my view, one paragraph on page 2 of the minister's second reading speech—I am happy if someone wants to correct me—really sums up the policy of this bill. That paragraph states —

The purpose of the bill is twofold: first, to create new offences relating to out-of-control gatherings; and, second, to confer the necessary powers on police officers to enable them to effectively respond to out-of-control gatherings by shutting them down. It is important to note that not all social gatherings are covered by the bill.

Those are interesting policies. One could argue that a requirement for a party to become an out-of-control gathering is that two or more persons associated with the gathering must engage in specified conduct. Although it is noted that not all the conduct constitutes a criminal offence, the vast majority does. For a gathering to be an out-of-control party, criminal conduct has to occur. Will the creation of new offences relating to out-of-control parties assist? Maybe it will, but there are already offences being committed for which the police should be able to arrest the people committing those offences.

The second purpose of the bill is to shut down those out-of-control parties and bring back a sense of order, a sense of lawfulness. Nobody will disagree with that. Certainly nobody from the Labor Party will disagree with that. It is best summed up by saying that I hope the real policy of this bill is about protecting the community from criminal behaviour and fear in our suburbs. That is my view; that is what the real policy of this bill is about. Of course, Labor wants to do that and, of course, we are happy to support legislation when the government is able to explain to this house that that is what will occur as a result of passage of the legislation. There is no way that we would oppose that. We seek to continue to go through the detail of the bill to see whether it will achieve that policy of protecting the community from criminal behaviour and fear when out-of-control gatherings are conducted by mobs of people. It is important that that occurs.

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Earlier today I sat in the chamber and I listened to Hon Sally Talbot going through a range of issues about the detail of the bill. The Attorney General, across the chamber, invited her to oppose the bill, yet it has always been clear that we support the policy of the bill; it is part of the role of this house to go through the detail. One of the problems this week is that we have already been told and instructed by the Premier that we are not allowed to move amendments. If we move an amendment to any piece of legislation in this house this week, we are defeating the bill. That is his view. The Premier does not respect the rights and privileges of the upper house of the Western Australian Parliament. In his view, it will be treated as a defeat of the bill. It is one of the most outrageous things. The Attorney General can laugh and he can smile and chuckle away, but that is what his Premier told the people of Western Australia when the lower house got up. He said, "That's it for the year. The upper house can now rubberstamp the legislation. They are not allowed to amend it. As far as this government is concerned, any attempt to amend legislation is equivalent to defeating the bill."

**Hon Michael Mischin:** You haven't got any amendments on the table.

**Hon KEN TRAVERS:** No, but we are raising the detail of the Criminal Law Amendment (Out-of-Control Gatherings) Bill, Attorney General.

**Hon Michael Mischin:** You're saying we're stopping you from amending it.

**Hon KEN TRAVERS:** Why would we put amendments to the bill on the table, when we have been instructed, told by the Premier, that —

**Hon Liz Behjat:** And you will do what you're told by the Premier.

**Hon KEN TRAVERS:** No. Why would we put amendments on? We will support this bill and allow it to go through. I will come to the ramifications of that in a little while as I go through the policy of this bill. That is the arrogant approach of the Barnett government. I do not know why it bothers. We should probably have a system whereby when the Liberals are in power in the lower house, the upper house is abolished, and when the Labor Party is in government, we bring it back. We might as well save the money. Under the management of the Liberal Party and its National Party colleagues, the state budget is in absolute turmoil at the moment. In fairness to the Liberal Party, I note that it ends up having to accept responsibility for the expenditure, but the National Party is always happy to help it spend. But I digressed for a second and I will come back to the bill.

Today we are in the situation in which the only thing we as an opposition can do as we work through this piece of legislation is highlight the problems with the detail. There is no point in moving amendments, because we have already been told. Let me make it clear to the Attorney General: my biggest concern about this bill is that it will not succeed in achieving the policy that the government claims it will achieve—namely, reduce fear in our community and control out-of-control parties. Remember that, because of the ground rules that the government has set for us, that will now be on the government's head. When over the summer break there are out-of-control parties that are not able to be controlled, it will be the government's fault. The government had the opportunity to bring legislation into this place. The government had the opportunity of the wisdom of this chamber to assist it in getting good legislation, but the government and its Premier made it clear that that will not be allowed on this occasion.

**Hon Adele Farina:** Or any.

**Hon KEN TRAVERS:** Probably on any occasion, Hon Adele Farina, but particularly on this occasion in the last week of Parliament, that will not be allowed. Therefore, when parties get out of control, the Minister for Police, the architect of this legislation, and the Attorney General, who is responsible for the carriage of this legislation through this chamber, will have to stand in front of the television cameras. The Attorney General might want to start to develop his eight-second grab about how, although he has been given the legislation exactly as he and the Minister for Police proposed and has all the other resources of government available to him, he cannot control the out-of-control parties. I am fairly confident that that will be the case for the reasons outlined by my colleagues earlier in the debate today. Hon Sally Talbot, Hon Adele Farina and Hon Sue Ellery all gave very good explanations about how, although we support the policy of this bill, the detail contained in this legislation has the potential to be flawed and end up resulting in problems, and the government is not addressing a whole range of the real causes of these out-of-control parties that we all consider a blight on the Western Australian community. We want to be rid of these out-of-control parties. I put one simple challenge to the Attorney General: to stand and say that with the measures put in place by the Barnett government and the passage of this bill, the government will be able to control all out-of-control parties this summer. I bet you, Mr President, that the Attorney General will not be able to stand in response to this debate this afternoon and give that commitment to the house, because, I think in the heart of his heart, he knows that this bill is nothing but headline legislation.

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This bill was developed for the purposes of the eight-second grab and the government has not gone through and talked about it.

In his second reading speech, the Attorney General stated —

Out-of-control gatherings are characterised by large numbers of attendees and criminal or antisocial conduct. Gatherings of this nature are a relatively modern social phenomenon.

I am not sure that that is a necessary statement. Gatherings of a relatively large number of people at which criminal or antisocial conduct occur are not modern. I know that the Attorney General as a young lad growing up hailed from the Scarborough region. He is of a similar age to me and I am sure that he will recall —

**Hon Sue Ellery:** What was the pub? Was it the White Sands?

**Hon KEN TRAVERS:** The White Sands! There were many pubs at Scarborough; the White Sands was one of them.

I do not know whether the Attorney General recalls the Scarborough drags that used to occur when we were much younger of years. I do not know whether the Attorney General would have attended the Scarborough drags.

**Hon Michael Mischin:** I didn't have that pleasure.

**Hon KEN TRAVERS:** You did not have that pleasure, Attorney General?

**Hon Michael Mischin:** No.

**Hon KEN TRAVERS:** That is interesting. I had the pleasure of attending the Scarborough drags on one occasion. I recall at the time that there was community angst about the Scarborough drags and what was going on at those events.

**Hon Liz Behjat:** There was a big tall young person who was creating havoc down there—no wonder they were concerned!

**Hon KEN TRAVERS:** No, I was —

**Hon Sue Ellery:** We'll have to hear the whole story now!

**Hon KEN TRAVERS:** I was a big tall young person and I attended the drags on one occasion and I had the fear of life put into me that made sure I never went back! But I want to make one point before I get to that. Those events caused some disquiet in our community and there were lots of headlines at the time about the need to shut down the drags. The drags created angst in the community; the locals of Scarborough did not appreciate them in any way, shape or form. The significant difference between then and now is that sense of mob mentality. That is the real crux. We want to control the out-of-control parties today, but we have to try to understand what makes the difference between the mob mentality that occurs at some of these out-of-control parties today and what occurred at the Scarborough drags.

As I say, there was big outrage in the community at the time about wanting to shut down the drags. I will tell the house my story about my one occasion of attending the Scarborough drags. I was in Boy Scouts and I had gone to a Scouts meeting. Afterwards —

**Hon Kate Doust** interjected.

**Hon KEN TRAVERS:** I think I was in Venturers actually; I was probably about 16 years old at the time. A couple of my mates—one of whom was old enough to drive—and I were intrigued by these things called the drags. We had heard and we read about them. When I look back and reflect upon it, I wonder why we did these things, but at that age, that is what people do. There is a mystique; there is something about it that we have to go and explore and find out. I turned up at the drags with my friends. I am sure that the Attorney General remembers the Scarborough of old with the high car park and the low car park. The night I was there, all the cars turned up on the low car park and the drivers did their burnouts and carried on down there, and it was like a grandstand overlooking them from above. A complete idiot standing not far from me, who I had never met before in my life, I did not know them, threw a bottle at a police car patrolling across the bottom. The next thing I knew, my friends were pushed to one side and I was pushed into this group of about eight people surrounded by police officers. I can tell members that the panic that went through me at that point in time was immense! Not, I think, so much about the fear of being arrested, but the fear of having to explain to my mother why I had even been at the drags in the first place. I challenge anyone to tell my mother that she was not a good mother,

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because she was. She was an excellent mother who raised three very good kids and me! My mother now has it clearly on the record that she was a good mother, and my father was a good father.

**Hon Michael Mischin:** Certainly she was stoic and persevering!

**Hon KEN TRAVERS:** Yes! She raised three very good kids and me. As my parents always remind me, it took them four goes but eventually they attained perfection!

I went into an absolute state of panic at that point and was bewildered that someone had thrown the bottle. Racing through my head was how I was going to explain this to my mother. I feared my mother, not my father. Eventually a paddy wagon turned up and three coppers came into the group of us, grabbed the guy who had thrown the bottle, dragged him away, threw him in the car and took him away. The event then shut down and everyone left for the night. I can assure the house that to the best of my recollection I never went back to the Scarborough drags or anything like it again because it put the fear of life into me.

**Hon Michael Mischin:** I am still trying to get over the idea of you down at the Scarborough drags in khaki shorts and walking socks!

**Hon KEN TRAVERS:** We did not go in our Scout uniforms; we had changed! If my mother ever reads *Hansard*, she will discover —

**Hon Liz Behjat:** I will make sure she does!

**Hon KEN TRAVERS:** Do not worry, member, I will make sure that I tell her too.

She would not have known where I was that night because she believed I was at an event that she would have believed was completely in order. The people I was with at Scarborough were all good law-abiding citizens. To the best of my knowledge, not a single one has ever been in trouble with the law either before or since that occasion. At the time, that situation caused me angst, but the mob mentality is the key difference between those youth back then and the youth of today. I suspect that the majority of the crowd who was there that night believed that the guy who threw the bottle and was arrested deserved everything he got. That certainly was my reaction. I was really annoyed with him because when I walked to join my friends I almost embarrassed myself because I was shaking. We had been put in that situation by an idiot who committed a criminal offence and deserved everything he got. I do not know what happened to him or what drives the today's mob mentality and how we can control it. To be honest, I went to the Scarborough drags because of the publicity about them and the notoriety they were getting. I was young and intrigued and wanted to know what was going on and why. Members might be critical of me and say that I made the wrong decision that night. If the police had arrested all of us, I am sure that I would agree now that I did make the wrong decision. It may be that I did make the wrong decision at the time.

I believe that most law-abiding citizens do not want to get caught up in the criminal justice system but another group of people do not necessarily hold a similar view. They would not have been petrified in the same way that I was and would have considered it a badge of honour to have been involved. When we legislate, we must be careful to not look at these matters purely from our perspective. I suspect that the vast majority of us, if we were truthful, would share the same perspective about the criminal justice system. We believe that the idea of getting caught up in it is absolutely abhorrent. We avoid doing things that would bring us into contact with it by going about our lives making sure that we do not break the laws of the land or engage in antisocial behaviour. However, there are many for whom that is not the case. It is almost a challenge for them to test the boundaries. I listened to Hon Bob Kucera talk about this. His view is that he believes he never arrested anyone who expected to be caught. My view is that if I were to engage in criminal behaviour, I would expect to be caught. That is the mentality I have when I approach these things. I would be fearful of getting caught but for many people that is not an issue. Most of us would be fearful of getting caught. We do not commit crimes because we agree with the morality of the vast majority of laws—in fact, I cannot think of example when it is not the case, so I will say 100 per cent of the laws—and the way individuals should behave in society, but many people do not. People who get caught up in the criminal system come at it from a different perspective and so when we try to address these types of issues, we must understand that is the case. Is that an argument or an excuse to go soft on crime and criminals? No, it is not, and I want to make sure that is very clear. We need to take a strong, tough approach when people engage in antisocial behaviour that creates fear or destroys the lives of others, but we also need a successful approach. We must take into consideration how those people think when we frame legislation.

It is probably fair to say that when most of us were young, it was easier to get alcohol than it is today. The requirement for people today to show a driver's licence when purchasing alcohol from a bottle shop or a pub makes it virtually impossible for someone who is under 18 to buy alcohol. That was not the case when we were

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young. I am pretty confident that if I had walked into a bottle shop when I was a 16-year-old and probably about six foot-four inches, I would have been served alcohol without any questions asked. I suspect also that if I had walked into the Quokka Arms on Rottnest Island when I was 13 or 14 years old, I would have been served alcohol, but that is not the case today. Although our legislative approach has been to make it harder for people of that age to get alcohol, the end result is they are probably getting more alcohol than we did when we were underage. Also, their mob mentality behaviour is extremely different from the way we behaved. They are challenges for our society to address.

I have no doubt that one of the great deterrents for out-of-control parties is the threat of getting caught. I suspect that the kids who are running around on the streets of our suburbs at night causing fear do not believe that they will be caught and prosecuted. I am not convinced that this legislation will make any difference at all, but if it does, that is great and that is why I will support it. If it does make a difference and create a fear for those kids engaging in that sort of behaviour that they might be caught and that therefore acts as a deterrent, that is good. What is the other thing that would act as a deterrent to young people at an out-of-control party to remind them that they might be caught and charged if they throw a rock at a police officer? I talked about the drags. The guy who did that was arrested and, I would imagine, taken into the criminal justice system, charged and hopefully suffered a pretty severe penalty to teach him a lesson. The other thing that will create fear and act as a deterrent to these people is the ability for the police to be able to catch them when they throw rocks and the like and when they throw bottles—the fear is that they will be arrested by the police. That will be for offences not covered by this bill, but for offences in existence today. One of the things that would do that would be more police. I recall a candidate for Premier going to an election over four years ago promising to add 500 extra police officers. Have we seen that promise delivered? No, we have not, and we will not. I do not think an auxiliary police officer will assist in controlling these out-of-control parties—they will need to be fully sworn police officers. Where are those 500 police officers that Mr Barnett promised would be delivered four-and-a-half years ago?

One of the reasons that this summer the government will not be able to control the out-of-control parties, even with this legislation, is that the Attorney General and his government have not honoured their solemn promise to the people of Western Australia to provide 500 additional sworn police officers and 200 additional staff. The government might try to argue and fudge it that that is a promise that will go into the next term of government—that is not what the government put in its adverts. It might have been what the government put in its detail, but it is not what it put in its adverts, and the simple fact is that the government will still not meet that target because it did not say it would employ 350 officers and 150 auxiliaries. It does not even have a plan going into the next financial year to deliver 500 extra police. It has broken that promise with these auxiliary officers who will not be of any help with these parties. We have had a population growth in Western Australia of just under three per cent on average over the last four years. If we do the sums, it means that the number of police per head of population in Western Australia has actually gone backwards. That is why I think we have a problem with the ability to act as a deterrent and it is one of the reasons I suspect that these kids think they can get away with things. The laws we have in place do not act as a deterrent, because those kids believe that they will get away with things and that comes back, very simply, to this fact: this government has not kept up the police numbers to match the population growth in Western Australia and it has not honoured its election commitments to deliver police.

It is claimed that these out-of-control parties are a relatively modern social phenomenon. I think it is the mob mentality element of those parties that is the modern social phenomenon. It has not developed over just the last 12 months, but it has basically arisen during the term of this government. I am not attributing that —

**Hon Michael Mischin** interjected.

**Hon KEN TRAVERS:** Let me finish. When does the Attorney General think out-of-control parties started?

**Hon Michael Mischin:** You blame the mob mentality on the government!

**Hon KEN TRAVERS:** Let me finish. Because of the Attorney General's little chuckle then, I will let him tell me when he thinks this current phenomenon, as it was suggested in his second reading speech, commenced. When does the Attorney General think what he referred to as a relatively recent social phenomenon commenced?

**Hon Michael Mischin:** Over the last several years it has become far more accentuated and prominent, but it is not as though it was not there before.

**Hon KEN TRAVERS:** I am not in this place today to say that it is the responsibility of Barnett government that this issue has arisen and that it is due purely to the election of the Barnett government. That is not the point I was going to make. If others want to make that point, they can, but that is not my point. The point I was trying to make is that the phenomenon has been around for a number of years and the government has had plenty of time to address it. In fact an interesting thing is that to the best of my knowledge, since the advent of responsible

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government, the Barnett government will have had the longest single-term reign in office of any government—certainly since the Second World War. I cannot think of a government that has had a longer period in office than this government will have. This issue has evolved over this government's time in office, but it goes back a number of years—the government has had plenty of time. The first time it ran the eight-second grab that led to the legislation we are dealing with today was a good couple of years ago. The government has had all of that time to develop a response. At the conclusion of this debate the government will have through the Parliament the very piece of legislation that it says is necessary to control out-of-control parties. With those two elements, the government will be now left to hold the responsibility over the coming summer months for controlling out-of-control parties. The government needs to make sure that there are no out-of-control parties this summer. That is what people will be looking for from it. The government has had the opportunity; it has had everything given to it and Labor will support it. It is our view that if we had been allowed to, we might have been able to work with the government to help improve this legislation to get the policy of the bill to help make people feel safer in their suburbs, to remove people from fear and to stop criminal conduct destroying their peace and enjoyment. But we will not be allowed to do that, so we will have to live with the legislation as brought in by the government today. We do not in any way want to be seen to be stopping the government getting legislation through, because we want the government to have effective tools to do this. This is what the government has asked for; this is what it will get and the Attorney General will now be held responsible for it—the Attorney General and the Minister for Police.

**Hon Kate Doust** interjected.

**Hon KEN TRAVERS:** I find one thing amazing. Hon Kate Doust has pointed out that the government is already out there with its propaganda saying it has had this legislation passed. It will have this legislation passed, but one thing I think really leads to a problem in our society today is when members of Parliament in their campaigning go beyond gilding the lily to misrepresent the truth in a matter. That helps to evolve that distrust and contempt for our civil society, to be blunt, and I think that is also what helps underline that growth in antisocial behaviour—that constant behaviour of that sort of thing. I have seen all these pamphlets on which we were told that the Labor Party would oppose the legislation. Was this the legislation that we were told on Liberal Party pamphlets that Labor would oppose?

**Hon Kate Doust:** Probably.

**Hon KEN TRAVERS:** There were a number of the government's headline bills about which pamphlets were sent out with the government and government members saying Labor would oppose the bill before they had even brought the bill into Parliament and shown it to anyone. We do not oppose this bill because we do not oppose the policy of the bill. When we get the opportunity to improve bills by way of detail, we take those opportunities and attempt to try to do that. In many cases our attempts are rebutted by the government and it uses its numbers in this place to ensure that it can refuse to accept those attempts to improve and strengthen that legislation to allow that policy to actually be implemented and achieved. What we have also seen and what we should not forget is that over the last four years when many of those bills were brought in, the opposition made those points about the detail and subsequently we were proven right, and the government had to bring back further legislation to address the issues that, had the government only been prepared to allow the house to act as a house of review, could have been addressed earlier. We need look no further than the famous yellow Lamborghini as a good example of that. What happened with the famous yellow Lamborghini was predicted in this chamber and later played out exactly as Hon Kate Doust outlined at the time to this house. If I remember correctly, Hon Kate Doust, we proposed amendments that would have prevented the yellow Lamborghini circumstances occurring, and within six months the government was back with new legislation to address it.

Of course, the problem with the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012 is that once we get through the detail and it is passed today, after the house adjourns this week there will not be another opportunity for well over six months—I suspect it will not be until middle to late next year because of the way the parliamentary processes work—to have another go at fixing this legislation to make it stronger and better, and achieve what government says is the policy of the bill. I think it is interesting that the second reading speech contained, in my view, only one line that really outlined the policy, and I do not think even that went to the heart and nub of the policy of this bill. On this occasion the second reading speech was more of an explanatory memorandum. It seems to me that the policy is about protecting our community from criminal behaviour, relieving it of fear, and allowing it continued peace and enjoyment out there in the suburbs of Western Australia. Labor will never have any qualms about supporting legislation that has that as its policy. As I say, the only arguments there will ever be from us will be on the detail and whether the bill will be successful in achieving that. On this occasion the Premier has made clear that this government will not accept amendments, and that if any amendments were sought to be made, the government would seek to present that as the opposition having

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somehow defeated the legislation. Well, Attorney General, it is the government's bill, its detail, it is going to have to live with it, and I hope it is successful. I genuinely mean that—I hope the Attorney General is right on this one—because I do not want the people of the suburbs, the communities and regions of Western Australia to have another summer of out-of-control parties. I hope I will have to eat humble pie when this place comes back because of this legislation having achieved what the Attorney General set out for it to achieve. I hope we are able to control these out-of-control parties, but only time will tell.

I think I might be the last speaker for the opposition this afternoon, so hopefully this bill will shortly pass through this place, and we will then be able to move forward and the government can take it out there and get on with shutting down these out-of-control parties. Let us see what happens over the coming summer months.

**HON MICHAEL MISCHIN (North Metropolitan — Attorney General)** [4.13 pm] — in reply: I thank members for their contributions to the debate on the Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012. I thank the state Australian Labor Party for what appeared to fluctuate between support for the bill from individual members, and a rather more neutral approach of not opposing the bill on the part of some other members; as for the Greens (WA), I note they oppose the bill. I do not propose to address all the rhetoric; rather, I will answer some of the issues raised by members during the course of the debate.

I should say something at the outset regarding the assertions of Hon Ken Travers that somehow the Premier has indicated that any amendment to the bill will be regarded as a defeat of the bill.

**Hon Ken Travers:** That's what he said!

**Hon MICHAEL MISCHIN:** I do not believe he has said anything of that nature.

**Hon Ken Travers:** That's what he said!

**Hon MICHAEL MISCHIN:** If he has, then I am not aware of it.

**Hon Ken Travers:** He said it.

**Hon MICHAEL MISCHIN:** But what I have made plain is that the Legislative Assembly has ceased sitting for the remainder of this year, and so no amendments could be considered by the other place should they be passed in this place.

**Hon Ken Travers:** That is incompetent management by the government, if that is the case.

**Hon MICHAEL MISCHIN:** I note, however, that that has not prevented the opposition from proposing amendments to the next bill listed on the *Daily Notice Paper*, notwithstanding that that may involve that bill not being considered by the other place before Parliament resumes after the next election.

**Hon Kate Doust:** Absolutely. We are going to continue doing our job; just because the government does not want to.

**Hon Norman Moore:** You might be wrong; did that ever occur to you?

**Hon Kate Doust:** I don't think so.

**Hon MICHAEL MISCHIN:** So I am not quite sure what point is being made.

**Hon Ken Travers:** That's an outrageous approach, not to bring back the Assembly; what an outrageous, arrogant approach!

**Hon MICHAEL MISCHIN:** But I do note that despite the several concerns that have been expressed about the detail of the bill, no amendments have been proposed in respect of this bill; in fact, no improvements have been suggested.

Debate interrupted, pursuant to standing orders.

[Continued on page 8931.]

*Sitting suspended from 4.15 to 4.30 pm*