

PARLIAMENTARY COMMISSIONER AMENDMENT BILL 2009

Second Reading

Resumed from 19 March.

MS L.L. BAKER (Maylands) [10.29 am]: I rise to support this bill. It is an incredibly valuable change. It came out of a report by Prudence Ford, released approximately a year ago, into the activities of the Department for Child Protection, formerly the Department for Community Development. The Ford report made a lot of recommendations; one in particular was about the need to make sure that the death of any child who dies while in the care of government departments is investigated appropriately, not only to find out what caused the death, but also to understand the failures in the system and to try to find solutions and better ways forward.

One of the changes contained within this bill is the transfer of the Child Death Review Committee from the Department for Child Protection to the Office of the Ombudsman. The recommendation is to in fact disband the committee and replace it with a small unit within the Office of the Ombudsman. The unit will be charged specifically with investigating deaths of this nature. The role of the unit will be to give the Ombudsman jurisdiction to review certain child deaths and to provide that the Ombudsman be notified by the department of child deaths that are defined as investigable deaths, to ensure that individual child deaths can be further investigated in appropriate cases. The unit will also allow the Ombudsman to make recommendations as he thinks appropriate to any department or authority relating to policies and practices for the prevention or reduction of child deaths.

The bill provides a definition of “investigable death”. Proposed section 19A(3) states —

An investigable death occurs if a child dies and any of the following circumstances exists —

- (a) in the 2 years before the date of the child’s death, the CEO had received information that raised concerns about the wellbeing of the child or a child relative of the child;
- (b) in the 2 years before the date of the child’s death, the CEO, under section 32(1) of the CCS Act, had determined that action should be taken to safeguard or promote the wellbeing of the child or a child relative of the child;
- (c) in the 2 years before the date of the child’s death, any of the actions listed in section 32(1) of the CCS Act was done in respect of the child or a child relative of the child;
- (d) protection proceedings are pending in respect of the child or a child relative of the child;
- (e) the child or a child relative of the child is in the CEO’s care.

This basically gives the Ombudsman responsibility for looking at child deaths that occur under these conditions.

I am completely supportive of these changes. This is not a topic that I enjoy talking about at all; it is an incredibly fraught topic. I suppose that child deaths have come more into focus over the past 10 years as the internet has speeded up communications. The sexual or physical abuse of children was a topic that was not generally discussed openly as little as 10 years ago. Friends from various religious backgrounds have talked to me about this at length. The opinion that we have arrived at as to why this occurred is that many of these instances relate to a close relative of the child, and in a “nice” household it was not the done thing to talk about this kind of stuff; it was hidden and covered up. It was a dreadful, dark secret. Over the past 10 years, we have seen those secrets being uncovered, and the nastiness of them is beginning to be dealt with by the community as a whole. One of the results of the gradual unfurling of this issue is the drive towards a much more investigative role for government. The community at large abhors these stories when they appear in the media. I am sure it would not take any member very long to think of one such case that has been reported in the media within the past few months. When I was in England recently, there was a story in the media relating to the foster care system, which in Britain has been outsourced to the British equivalent of local government authorities. In this instance, a teenage boy was fostered to a family with two small children—a two-year-old and a four-year-old. Due to poor communication and a lack of discussion between the agencies involved in fostering the boy to that family, the information that he was a sex offender was not passed on. It was horrific; the two-year-old was repeatedly raped and damaged, and the four-year-old was also raped.

I bring this up because what I really want to focus on and talk about is the fact that this legislation will have value only if it is resourced properly, and I urge the government to make sure that this unit, the role of which is to investigate child deaths, is adequately resourced. That is one point, but it is a bit like shutting the gate after the horse has bolted to talk about investigating a child who is no longer with us, and the reasons for the child’s

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin
Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

death. As important as it may be to tell us where we need to go in the future to avoid this kind of problem, the real question is: how can we prevent children becoming victims of abuse? Again, this is an issue in which the government, non-government agencies, and families all have a role to play. If we are to look at ways in which to best effect the prevention of this kind of abuse, we will find that resources must go into the education of parents to make sure that they are well aware of how to parent, how to deal with anger, how to deal with the shock of bringing a child into the family for the first time, and understand how it will change relationships—basically, the skills required to bring up children.

When this new unit is set up, it will be very important that it be adequately resourced to do the job we are asking of it. I know that the government has made a commitment to spend money on setting up this unit within the Office of the Ombudsman. We also need to look at ways to keep children out of this investigative unit in the first place. What risks are involved in this legislation? Firstly, we may not see adequate resources going into it, and I urge the government to make sure that that does not ever happen. It is very well understood by both sides of the house that many conversations need to take place between government, non-government agencies and families in order to provide the kinds of programs currently offered by the Department for Child Protection, and to provide care for children in the community in general, particularly children at risk and vulnerable children. To set up and manage such programs requires adequate staffing levels and resources for the government and non-government agencies involved.

Many people, including Professor Trevor Parry, have said that it takes a village to raise a child. The number of agencies that are involved with the Department for Child Protection include the Department of Corrective Services, the Western Australia Police, the Office of Mental Health, the Disability Services Commission and the Department of Health. Many non-government agencies are involved in helping parenting and helping to keep children safe, and some of the bigger ones are Anglicare, Centrecare, Wanslea and Ngala. All these agencies currently run programs that overlap or require discussions with other agencies to be effective. Child protection programs are, therefore, beginning to become integrated. I am hoping that the ability to set up these programs continues and we can continue the efforts to keep children safe. My fear is that because we are going through a tight economic time and cutbacks are being mooted, the cutbacks will happen. I am also aware that the Treasurer and the Premier have said many times that agencies will need to cut back to core services. Although I understand all of that, the thing that goes when agencies cut back to core services is the time that it takes to work with other key stakeholders to do such things as come together to talk about how to protect children. It is a grave concern to me that if there are massive cutbacks in various government and non-government agencies and a regression to only core business, as the government may define it, some programs that are operating across government and non-government agencies and with families will cease to operate. There is absolutely no doubt that this will be to the detriment of children's safety.

Along with a cut in resources, of course, there will be a cut not only in dollars, but also in staffing. It is a pretty difficult job for staff who work in the child protection area. It is one that is quite difficult to recruit to, as we found out when we were in government; indeed, I am sure this government will find the same thing. It is difficult not only to recruit to those jobs, but also to hold people in those jobs. I am sure that those members who have friends who work in child protection, whether it be in the police force—my immediate family members work in this area with the police—or in child protection agencies in the government and non-government sector, will know that there are only so many times that workers can knock on people's doors and accuse them of something or take a child away or deal with difficult circumstances around any accusation of sexual or physical abuse of children. I suspect that it is very difficult for those workers to maintain their sanity.

It is important to note that in the past 12 months, when the previous Labor government was in power, a very effective campaign was launched by the now new minister and other community groups—I think also unions—to impress upon the government of the day that, as a matter of extreme urgency, resources needed to be put into child protection. I think I can safely say that the government of the day was harangued very effectively by the new minister and other stakeholders. The Labor government put an extra \$500 million and 500 staff into this area. The risk, again, in this current economic climate is that the most vulnerable members of the community will have fewer people available to work with them. I understand that the cuts to the Department for Child Protection alone will be \$13.5 million in the next 14-odd months, and of course there are more cuts to come in the out years. We hope that that will change if the economy comes a little more on-stream. However, the department recruited an additional 200 staff as a direct result of that extra funding that the previous government put in last year.

Mr D.A. Templeman: Unprecedented!

Ms L.L. BAKER: Unprecedented funding; I thank the member for Mandurah.

Mr C.J. Barnett: After enormous pressure from the Liberal Party, too, actually.

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin Whately; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

Ms L.L. BAKER: Correct, and I have acknowledged that, Premier. The previous government did act. What I am concerned about at the moment is that the agencies have been told to drop back to their 2008 staffing levels. After ramping up the services, at the end of last year there were about 200-plus extra staff and the rest are still being recruited. I believe that efforts to continue with that process have stalled under the changing resource conditions. That is a real flag for this government to be concerned about. What happens if the government does not continue with the commitments that it told us were so vitally important? What happens if the government does not continue to put that extra money into child protection? Surely the economy's performance does not change how much we care for our children. If it was a priority last year, if it was absolutely urgent and if we had been so remiss in denying it that we then put in the money to resource it, how could it have changed so much in 12 months because of what is happening in banks or because of the financial crisis? I cannot make that connection and I am sure that many parents would agree with me.

The final concern that I have about making sure that this area is resourced effectively is so that the child protection system is not deluged with the less serious problems to investigate. On the issue of mandatory reporting, again, after a lot of lobbying and a lot of work from the community, from unions and from the now government when it was in opposition, the previous government implemented a restricted form of mandatory reporting. I want to use some work that was done just last November by the honourable James Wood, QC for the New South Wales child protection service. His report was released after he conducted an inquiry launched by the New South Wales government into its system of child care after several children who were known to welfare officers died within weeks of each other. They included, members may remember, a two-year-old child whose body was found in a suitcase in a Sydney pond last year. These were appalling circumstances. The New South Wales government recognised that and took steps to work out what was going wrong with the system of child protection and how it could tackle it better.

I will refer in general terms to this report and I will quote from a couple of parts that are appropriate. The Wood report refers to the contemporary challenges facing child protection systems in Australia in general. James Wood said that in his view the largest challenge facing the system—I think members would agree that this would apply in Western Australia just as much as anywhere else—is having sufficient resources available to ensure flexible prevention and early intervention services in order to reduce the number of children and young people requiring the state to step in and keep them safe. If that is the starting point for the report that the New South Wales government has published, it is worth looking at what it then states about the New South Wales experience of mandatory reporting. Those members who were around at the time will remember that I was not a big fan of mandatory reporting. That might sound totally counterintuitive, but what I am about to talk about is the reason why I have grave concerns about a system of mandatory reporting unless it is well resourced. New South Wales has a broader system of mandatory reporting; ours is more restrictive. We did so quite purposely to target the highest risk areas of professions that work with children rather than adopt blanket mandatory reporting. I probably should have made it clear earlier that I am talking about the mandatory reporting of child sexual abuse. The problem that has arisen in New South Wales is, to quote from the Wood report —

Too many reports are being made to DoCS which do not warrant the exercise of its considerable statutory powers. As a result, much effort and cost is expended in managing these reports, as a result of which the children and young people the subject of them receive little in the way of subsequent assistance, while others who do require attention from DoCS may have their cases closed because of competing demands on a system (that is, insufficient resources).

The Premier has said in the media on several occasions that his government would like to expand the terms of mandatory reporting. However, I urge the Premier to proceed down that path with caution. I say that because so much is at stake. The system is already struggling to cope with the new reporting regime. I know that the Premier is aware that any expansion of the mandatory reporting regime will place additional imposts on the system. Therefore, if the Premier not prepared to put extra money and resources into supporting that system, any expansion of that system will be a horrific failure. No one wants that to occur, because the end of that horrific failure will be not a house that has fallen down, or water that has flowed out of a dam, but a child who has died, so that is certainly not an acceptable way forward. Any expansion of the scope of mandatory reporting will result in a huge increase in the number of reports that are made. We have yet to see what effect the mandatory reporting regime that was put in place by the former Labor government is having on workloads in child protection, but we anticipate that there has been a huge increase in workloads.

Mr D.A. Templeman: It will be interesting to see whether the government will increase the funding if it does expand the scope of mandatory reporting.

Ms L.L. BAKER: Yes. That is precisely my point. The government will need to be very cautious if it decides to go down the path of expanding the scope of mandatory reporting.

Extract from Hansard

[ASSEMBLY - Thursday, 7 May 2009]

p3586d-3604a

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

We need to look also at the effect of mandatory reporting on the child protection system. Many of the youth workers who are working in schools or with homeless kids on the streets develop a sense of comradeship and trust with those kids. I am told that enables those youth workers to get closer to the kids and get a more honest understanding of what is happening in their lives. However, friends of mine who are working in this area have reported to me that since mandatory reporting has come in, they are no longer as confident about encouraging children to disclose sexual or physical abuse, because they know that they will need to report that to a system that will not be able to respond, or that will be so busy responding to other complaints that their complaint will be put at the bottom of the pile and the child will not get the attention that he or she needs.

I know that these arguments have been well aired in the debate on mandatory reporting. However, I air them again briefly now to underline the need to be very cautious about expanding the scope of mandatory reporting until we understand what impact that will have on the system. We also need to be very cautious about expanding the scope of mandatory reporting until we understand the impact that will have on the non-government agencies that work in child protection. It is well documented, and I am sure the Premier would be aware, that many of those agencies have been lobbying governments for some time—that included the former Labor government—about the 30 per cent shortfall in the resources that they require to enable them to deliver the services that they have been contracted to deliver. Many of those agencies are now having to eat into their retained funds for things such as long service leave so that they can make good on their contracts. I therefore urge the Premier to be very cautious about what he does in this area.

I absolutely support this legislation. However, at the same time, we now have a chance to get things right and to ensure that the system does deliver for the most vulnerable children in our community. I cannot emphasise enough the need for early intervention in a child's life. We need to ensure that 10 times more energy and resources are expended in the area of child protection. That is a pretty modest amount to ask for to prevent a child from ending up as just a name on a manila folder that has come into the Ombudsman's office.

MS A.R. MITCHELL (Kingsley) [10.57 am]: I support the Parliamentary Commissioner Amendment Bill 2009. The background of this bill has been outlined previously. However, I reiterate that it is the result of three recommendations made in the Ford report on child death review functions. The purpose of the bill is to give the Ombudsman the jurisdiction to undertake child death review functions in the future. That is a natural progression in this area. The Child Death Review Committee was established in 2003. However, that committee is linked with the Department for Child Protection, because the committee is obliged to consider the operation of the policies, procedures and systems of that department when a child who is known to the department dies. That means that it is sometimes quite difficult for that committee to be independent. That is no reflection on the people involved; it is just a fact. The concerns about the independence and effectiveness of a committee that has links to a minister and a department were highlighted in the Ford report. Therefore, this is an opportune time for us to make changes to that process to provide the independence that is required when dealing with the important issue of child deaths. I am sure that all members who have been involved in investigations would know that the key aspect of any investigation is to gain access to the people and organisations that can provide the information that we require. The problem is that this committee was not always able to gain access to the government agencies and staff that it needed to access to get an accurate and independent report on a child death.

Under this bill, the child death review functions will be transferred to the Ombudsman. The Ombudsman in Western Australia has demonstrated a good ability to independently assess and investigate matters. We are talking here about the deaths of Western Australian children. This is a very delicate, sensitive and unpleasant subject. It is not a subject that people like to spend much time on. Yes, it is easy to deal with this subject when it is—as the member for Maylands has said—just a name on a manila folder on a person's desk. However, that is not what this is about. This is about the deaths of Western Australian children. It is essential that we make every endeavour to gain accurate information about the death of any child who is known to a department and address all the systems that we need to address to ensure that we prevent the death of any other Western Australian children.

I believe that it is imperative for this bill to proceed through Parliament without any hesitation because we are dealing with the deaths of Western Australian children. The death of a child is the end of the line. I certainly support many of the comments that the member for Maylands made. The member was concerned about the provision of adequate resources for these investigations. My preference is to do a lot more work beforehand so that fewer resources are required for an investigation. Yes, investigations need to proceed to get the best and most independent outcome, but we must do as much as we can prior to that. The amount of resources provided is less significant than how effectively the resources are used. The effective use of resources will give us the best outcome. I suggest that the amount of resources provided is not the prerequisite for saying that this will be done well; it is a matter of how it is done. Often they might be interchanged. As I said, we are talking about the death

of a child. My preference is to minimise the number of deaths that occur. Obviously there would then be fewer investigations.

In many of the debates that have been held in Parliament since I have been elected, a lot of comment has been made about our community. We all know that there are aspects of our community that are not as we would like them to be. We can spend time addressing those matters through other government departments and not just the one that is responsible for child protection. Child protection is not an easy area, but if we can do a lot more work before children come under the eye of the Department for Child Protection, fewer children will need special attention, and we will have been very successful. I point to matters such as improving behaviours in our community. They are far-reaching matters and involve not just children, but a lot of people. We read about it and see it daily. We must improve people's behaviour. I am trying to come up with the right words, but I will say that we must raise the standards of behaviour because they have slipped. There is no doubt about that. What is acceptable now certainly was not acceptable previously. I am talking about how we treat people and speak to people. Let us get back to respecting one another. That sort of thing makes a huge difference. It is hard to enforce and it needs to come from within. A great number of people are needed to make sure that there are fewer child deaths to investigate. We need to create a very positive social and family environment in which the sorts of activities we are considering would not even be contemplated. I know that they exist. If we can minimise them, we will be much more effective.

We need the support of many agencies and many people. We must make sure that those agencies and people are not there to protect their jobs. If a department has a problem to deal with, it will exist. We must make sure that those people are working to reduce their role so that we can move them on to other roles. It is a concern to me when some departments like problems because they then get good budgets. We want to make sure that there are fewer problems so that those people can be transferred to other roles. As I said, I support this bill and I look forward to its speedy passage.

MR D.A. TEMPLEMAN (Mandurah) [11.03 am]: I am very pleased to make a contribution to debate on the Parliamentary Commissioner Amendment Bill 2009 and I very much support its carriage through this place. I am pleased also that the Premier is here and that he will respond. It always saddens me a little, to be honest, that when important debates such as this are before the chair, there are not many members in the chamber.

As has been mentioned by the previous speakers, this bill is about the transfer of powers and responsibilities from one statutory body to another. I appreciate the comments that the members for Kingsley and Maylands made. They have both spoken about the absolute priority that must be given to children in our community. It is true to say that over the past few decades, in a whole range of areas, the value of children has perhaps been put in question. When I was a City of Mandurah councillor, some people came to me and said that they were very upset about the establishment of childcare centres or child-centred activities in their neighbourhood. I was always quite flabbergasted that people would want to segregate children from neighbourhoods. I was privileged to grow up in country Western Australia, in Northam, where children were an integral part of the neighbourhood and the community's activities, and valued. I have always been concerned about trends that seek to segregate children. I do not think it is necessarily done intentionally, but the net result is that sometimes children and their place in our community are devalued. We must rally against any attempt to do that.

I know that it is a cliché to say that children are our future. I went to a conference in Victoria and the best speaker talked about children and young people being vital people who are not only our future, but also our present; they are integral parts of what makes human communities. I must admit that I probably did not appreciate that then as much as I did after I became a parent in January last year. Certainly that has changed my perspective of children.

I was privileged to serve as the Minister for Community Development. It is probably one of the most difficult gigs anybody can have. It is a great privilege but it is certainly a tough gig. It is one of the most difficult portfolios because it involves policy and decision making that genuinely impacts on families and ultimately on children. When I became the minister in March 2006, it was not long after the Wade Scale case, which was an absolute tragedy. The baby died in appalling circumstances. I had been a minister for only a few months when the coroner's report was released and details of that tragedy became known. One morning when I was on my way to Perth to attend a cabinet meeting, I ducked into my electorate office and saw that I had received a fax at about 6.30 am or 7.00 am from Wade's grandmother. The letter explained her pain, anguish and distress about what had happened to her grandson and it detailed her views about the system that had led to the death of that poor young boy. It was fortunate that I ducked into my electorate office that morning on the way to Perth because I had not intended to. When I saw the fax, I rang her up there and then and told her that I needed to sit down and talk to her. I called in to see her on the way to the cabinet meeting. That was a moment in my political career and in my life when I saw in front of me someone who was absolutely grief stricken. I admired her, and it

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

was to her credit that she was so passionate about making a difference, how we can change things, what we need to do with the culture of departments and society and how we do things and allow things to happen. It was a very sobering experience for me as a minister of less than three months to sit with a woman who outpoured to me her genuine grief but also her views on what needed to happen.

All governments of all persuasions will be criticised, and so they should, for not doing enough. Certainly, when we were in government a range of initiatives, both legislative and policy and program related, were introduced. I suppose in many ways it is about making sure that the issues of how we raise children, value families and allow parents, and in particular the family network, to support children in a loving way that gives them the best opportunities to thrive into the future are an ongoing priority for all governments. We should not simply say that we have fixed it because we have new legislation, a new system for reporting deaths or a new system for investigating deaths, or that we have fixed it because we have introduced a new program that deals with youth drug issues or young people who have gone off the rails. This is about ongoing policy and ongoing debate. That is why when we have issues such as this, it is so important in this place that members make a contribution and that they talk about their various policy views. The member for Maylands highlighted one example of the mandatory reporting issue, but there are many others that we could go into.

It is critical for the transfer of powers from the Child Death Review Committee to the Ombudsman that we look at what the review committee ultimately achieved over the past six years or so since 2003 when it was established. Of course, the previous government introduced the child death review process. It was a very important investigative process that looked at the tragedy of any death of a child who had contact with the Department for Community Development, as it was then, or the Department for Child Protection, as it is now. I want to pay tribute to the chairpersons and the members of the Child Death Review Committee in its various forms during the past six years. It has had a number of members. I dealt with chairperson Rosemary Cant during my time as Minister for Community Development. I can tell members that that group—I am talking from my experience—was very forthright and very focused on its role and what it needed to report. All its reports were presented without fear or favour. Of course, some of them were critical of the department and some other agencies. We need to maintain that independence and that capacity to independently investigate such tragedies. I am hopeful, and I am sure that the Premier will give us an assurance, that it will continue. I am sure that that will be the case with the current Ombudsman. This raises the issue of resourcing, which I will come to shortly. I pay tribute to the Child Death Review Committee members past and present, who I know, as individuals, were absolutely committed. I should have also mentioned Dr Denzil McCotter as chairman, and I apologise. They were absolutely committed to the welfare of children and young people. They should certainly be acknowledged for their contribution.

Some of the initiatives over the past 10 years started with the previous Liberal government and continued with the Labor government. In our time in power the old Child Welfare Act was replaced with the Children and Community Services Act 2004. Subsequent amendments have been made to that legislation over the past few years. I know that the Premier will be interested in this: with a lot of prompting, we oversaw the introduction of the Commissioner for Children and Young People. It was one of the first pieces of legislation that I saw through this place. I again pay tribute to a member on the Premier's side of politics, Hon Barbara Scott. I get on well with Barbara and I have a great deal of respect for her, as I did when I was minister. It is great that we have people on both sides in this place who are passionate about children. It is wonderful that we have people like Hon Barbara Scott. I am sure there are others, and I am sure there will be in the future, who are passionate about making some changes. I remember that during consideration in detail, when I sat at the table, the now Minister for Education and for Tourism and the former member for Nedlands were very keen to highlight the resourcing of the Commissioner for Children and Young People. It was probably the issue that gained most attention. I know it is an issue that Hon Barbara Scott in the other place was also concerned about. Now that there is a change of government, I would hate to see the resourcing of the Ombudsman and the role that the Ombudsman will play in investigating the deaths of certain children in Western Australia not be part of the consideration in this bill. It is a critical issue. I take note of the member for Kingsley's point about making sure that the dollars available are used properly. I agree with that. However, I do not think it means that we say that resourcing is not an issue, because it certainly is.

I hope that when we look at what the Treasurer and the government announce in next week's budget, particularly with regard to efficiency dividends and three per cent cuts, we find that the area of child protection has not been targeted. We will have debates about who did things better, who did not do this, who oversaw so many deaths per year and so on, but the reality is that I do not think any member in this place is not passionate about protecting children. I believe that there is no-one on either side of the house who is not absolutely passionate about making sure that we protect kids and young people. It does not matter what political sphere we come from,

I believe that all of us are absolutely passionate about it and genuinely interested in ensuring that children and young people have the best possible future in our state.

I will be watching very carefully how the government responds to the mandatory reporting regime now that the legislation is in place. From my perspective as minister of the day, I grappled with the whole issue of mandatory reporting. I can see the reasons that mandatory reporting would be introduced. I was also influenced by the strong views on why mandatory reporting is not the best way forward and its downfalls. I remember talking to a very strong advocate for the victims of sexual assault. The member for Bassendean may have to help me remember the name of the spokesperson for —

Mr J.E. McGrath: Michelle Stubbs.

Mr D.A. TEMPLEMAN: Yes; Michelle Stubbs. That is right. I remember meeting with Michelle. She has very strong views and is a very passionate advocate for people who have been sexually abused—especially in the case of children. I admire her. I do not always agree with her, but I admire her because she is passionate about her beliefs.

[Member's time extended.]

Mr D.A. TEMPLEMAN: I remember meeting with Michelle in my ministerial office not long after I became the minister. We had a very good discussion about her point of view and the range of issues that impact on families, including mandatory reporting of child abuse. I remember Michelle saying, "If you go down the path of a mandatory reporting regime, resource it properly." She was very strong in her view about that. I am sure she has very strong views on transferring responsibility for the investigation of child deaths to the Ombudsman. I am sure she would be very passionate about ensuring that the new unit is resourced appropriately.

I applaud the government initiative that has resulted in a recruitment drive for foster carers. I attended the drive's launch. A couple of weeks ago, the minister hosted a function to encourage all members to talk with their local communities about the importance of a strong and robust foster care system for Western Australia. No doubt many members are aware that throughout both Australia and the world it is becoming increasingly difficult to secure people who are prepared to take on a foster care role. I applaud the advertisements that I have seen in the newspaper and on the electronic media. An advert has a young boy talking, albeit with an adult voice, about his experiences and about the need for positive foster care role models and families.

I admire both past and present members of this place who have been foster carers. I am not aware of any members from the other side who have acted as foster carers, but I would be pleased to know of any who have. I know the member for Joondalup has been a foster carer. He and his wife, Bernadette, have fostered a number of children over the years. I admire foster carers—people who put themselves forward because they genuinely want to assist a young person, child or baby to have a better life. Some, particularly those who take in very traumatised children or young people, are magnificent people. They deserve our support. Tragically, we need a lot more foster carers in Western Australia. It is a sad thing that we need more. We need more people who can provide a loving environment for these children and young people, particularly those who have been traumatised. I applaud that government initiative. It is a wonderful initiative that all members should get behind to promote as much as they can in the local communities in their electorates. We should encourage people to view foster caring as a way of making a positive contribution to not only their own lives and, obviously, the lives of children and young people, but also the community.

As the former minister, I remember going to school graduations for young people under the care of the department's chief executive officer. Many of those young people had experienced tragedy in their lives and had been involved with a range of foster carers or foster families, yet they were very resilient. Their resilience absolutely amazed me. Some of these children and young people have been through very traumatic and difficult times and are still resilient. In general, I admire the resilience of young people. Despite some of the difficult things that have occurred in their lives, they are still resilient. However, they need whatever support the community can offer.

I want to pay tribute to local government. Many local governments have recognised the importance of child-friendly and child-supportive environments in their planning procedures. Some Western Australian councils have policies for children and young people, and that is brilliant! Although local government is sometimes criticised for focusing on too narrow a theme, some local governments are saying that they want to embrace the children and young people of their communities. The City of Mandurah in my electorate is a good example of that, but there are many others. I will quickly mention our local library. I remember going to the Northam local library as a kid. It was a silent place; there would be no noise. At the Mandurah library, kids play with stuff and read

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin
Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

books; people tell stories; child-centred activities are pursued—and, yes, they make a bit of noise, but it is great to see and hear. I applaud local government.

I also applaud the many non-government agencies in Western Australian communities that are involved with working with vulnerable families and vulnerable children and young people. A variety of agencies network to support and assist children and young people in various parts of the state. I think we are very, very blessed in Western Australia to have passionate people in the non-government sector—who come from all walks of life and genuinely believe in the value of their programs—to deliver such absolutely fantastic outcomes.

The member for Maylands mentioned non-government sector funding. It is always an issue for all governments. Certainly, and in light of the challenging economic circumstances, it is critical that we support the non-government sector, because many parts of that sector—be it Ngala or Allambee Counselling services in Mandurah—work with children victims and the families of victims of domestic violence. The non-government sector agencies and organisations in the state are often the first to see these families. With the economic circumstances in which we find ourselves, many of them are reporting a tsunami of people coming to their offices. They would not necessarily have seen many of these people in the past. They now see people from families who had a reasonable income but now do not or who now find that the constraints of the downturn in the job market is impacting on their family life. The member for Maylands put it very well when she said that it was about relationships and the strains placed on relationships in the family unit, the neighbourhood and the wider community—strains that can cause even greater problems. If this economic downturn continues, I think we will see more and more people who traditionally or historically would not have been knocking on the doors of the Allambees, Ngalas or the other agencies within communities. I am very keen that the government does not neglect the non-government sector in next week's budget, and in the out years.

I will conclude my remarks by again underlining the opposition's support for this amendment bill. With the powers that are being transferred, it is important to acknowledge and recognise the passing of the regime from the Child Death Review Committee to the Ombudsman. It is important to monitor very closely the capacity of the Ombudsman to undertake this important work and to ensure that the Ombudsman is appropriately resourced. If we see reports or spikes in demand, it is important that it is addressed immediately by the government of the day.

I am sure that will be supported by the Minister for Education, who has come into the chamber. I was recounting, minister, when I was Minister for Community Development sitting on that side of the chamber during debate on the bill to establish the Commissioner for Children and Young People. I remember the minister strongly arguing for the need to provide appropriate resourcing for the commissioner and supporting her role. I am sure that the minister will be a passionate advocate in cabinet to ensure that the Ombudsman is resourced appropriately so that the Ombudsman will carry out, through the provisions of this bill, the responsibilities of the Child Death Review Committee. I know it is something that the Minister for Education is passionate and concerned about. I know we will have in cabinet, through the minister, a passionate advocate for that resourcing. I am sure that the minister will argue well for that.

I strongly support the legislation. I look forward to its carriage through this place. I also look forward to seeing more child and family-focused legislation and debates introduced into this place in the future because it is critical that we all reflect on the importance of children and young people in our communities and the importance of a supportive community and supportive family to the wellbeing of our wonderful young Western Australians.

MR P. ABETZ (Southern River) [11.33 am]: I support the Parliamentary Commissioner Amendment Bill 2009, which, as we have been told, moves the responsibility for investigating the death of children who have come to the attention of various government departments in the previous two years to the Office of the Ombudsman.

One of the issues that we face as a society and not just as a government is that an increasing number of children are coming under the care of welfare services of various kinds. Just recently we had the drive for more foster care parents because of the growing number of children in care. Despite a greater emphasis on providing family support to enable parents to take appropriate care of their children, an ever-growing number of children are coming under the care of various departments. Once a child has died, in many ways it is an indication that something has gone drastically wrong. Whether the death is through long-term neglect, accident or suicide, each death is a tragedy. Having worked in the community as a pastor for over 25 years, I have dealt with many people who struggle to look after their children, for various reasons. I have also had to deal with children who have been sexually abused, which often leads to self-harm, attempted suicide and so on. As a society, we need to address the underlying causes. Simply looking at the issue once the death has occurred indicates that we have missed the boat, so to speak. As a member of Parliament, one of the things I want to do is ensure that any laws or policies

that we develop will strengthen families so that the need for foster care will diminish and also that the number of children who come to the attention of child protection workers will also diminish.

One of the concerns when a death does occur is that it should never become a witch-hunt; rather, these investigations should be conducted in a sensitive way. There is obviously a lot of pain involved for the family, and even for the workers involved. I have known many child protection officers who take their work extremely seriously. Being a child protection worker is one of the most difficult jobs and the burnout rate amongst child protection workers is one of the highest of any profession. These people do their studies and come out of university all idealistic, but I understand that most do not last 18 months in the job because they find what they have to deal with in the job too traumatic. Being a child protection worker requires making a lot of value judgements about the most appropriate action to take. Whether to leave a child with the family is a hard call to make. Sometimes, in hindsight, a person would agree that if the child had been taken away, the child may not have come succumbed to death. I hope the focus of such an investigation would not be to apportion blame, but rather to strengthen the systems that are in place not only to support families, but also to assist our child protection workers in fulfilling their very important role in our community.

I commend the bill to the house.

MR W.J. JOHNSTON (Cannington) [11.38 am]: This bill is an important piece of legislation, and it is important to remember that every child's death is a tragedy. We cannot accept that children in care die; that is not something we should condone but should be working to prevent. It is not the case that the death of children in these tragic circumstances is inevitable. It is not!

As a community and as a Parliament, we need to do whatever we can to accept the responsibility that all of us share to try to prevent child deaths, particularly the death of those children who come into contact with government agencies and the community organisations that government agencies use to deliver services in these tragic circumstances. As the member for Southern River points out, it would be best if children did not have to come into contact with the Department for Child Protection or other agencies. It would be best for the community if families were stronger. As a community we need to think about how we can strengthen families. It is not just issues directly related to child protection that we need to think about in that regard. I will not go on with this thought for very long—I will refer to industrial relations as an example. As a member of the Labor Party, industrial relations immediately comes to mind because we want to have an industrial relations system that provides adequate income for working families so that they can survive and deal with the circumstances that arise in everybody's lives.

The next thing I will consider in this debate is the question of the expectations of the community now. I note in particular the member for Kingsley's comments about community standards. She put the view that standards are now lower than they have been in the past. I know that is a popular argument—the level of violence in the community is too high and we do not accept that. There are very strong arguments to say that there is more random violence today, like in Northbridge and places like that, than there was 40 years ago. I am not sure whether that is actually true in respect to child abuse. I do not know whether child abuse is worse today than it was 40 years ago. I think we would find that child abuse was hidden 40 years ago. As the member for Maylands pointed out, it was not a matter that was discussed in polite company, if one might put it that way.

I was at school from the late 1960s through to 1980. I recall that a friend of mine from my school years hanged himself at the age of 15 because of the abuse he had received from a teacher at the school that we both attended. Quite frankly, it was not until I was in my 20s that I became aware that that kid had been abused by one of the teachers at the school. I do not know that we can actually say that just because there is more understanding that child sexual abuse is a crime and that there is more abhorrence about that completely unacceptable behaviour, there is more child sexual abuse going on today than there was in the 1970s when I was a teenager, or in the 1950s before I was born—when others in this place may have been teenagers. I do not know that we can actually say that there are more of these issues now than there were in the past. I think that now, in the twenty-first century, the community, the government and the Parliament of this state are accepting much more clearly our responsibilities to prevent this happening across the community.

The next thing I want to talk about is the idea that it is these people whom we need to be helping. The people who fall into this situation are the people whom we need to help. There is not an "us" and "them" in the question of child protection. It is much more than "there but for the grace of God go I". I do not intend to go on very long about my personal circumstances, but as the eighth child of a war widow, in my early years—as a seven-year-old or eight-year-old boy—it was always a worry to me what would happen if my mother died. My oldest sister was 18 or 19 at the time. I thought: what would happen to me if my mother died? There were eight of us in 1968, 1969, 1970—that sort of time. The attitude to keeping families together was very different. My brothers and

sisters and I discussed—I remember this clearly—how hard it would be to keep the family together if our mother died.

It is not somebody's fault. It is never the fault of the child that he falls into the care of the state. There may be circumstances in which parents get involved with drugs or other matters that lead to the child needing the protection of the state, but there can also be many other issues involved. One thing that we all recognise on both sides of the house is that this is not an issue that the free market can solve. Quite clearly this is an issue that needs the action of the state. It needs the action of the instruments that are available to us to solve. If we did not take action, if we took a laissez-faire approach to this matter, the tragic circumstances that children who need the protection of the Department for Child Protection find themselves in would be worse. This is a matter that requires regulatory action. It requires the action of government. It requires the community to accept the collective responsibility that we have towards children to prevent this terrible circumstance arising.

Whilst there have been many tragic and unacceptable actions in the community that we all find totally abhorrent, we are fortunate in this state that we do not have the terrible history of other states. Former ministers for child protection in this state—there is some credit to all of them—have been able to manage our service delivery in this state. Whilst that has not been to the standard that we would all like, it has been to a higher standard than has applied in some other states, and internationally. We are all reading with incredulity the circumstances in the Channel Islands where a children's home apparently allowed the death of dozens of children, and there was never any action by government. These children went into the home and were buried underneath it. No government took action. We are very fortunate to have had good leadership by various ministers, including the member for Mandurah and others, such as former minister Sheila McHale. Whilst there are still tragic circumstances, and each of those deaths and tragic situations for those children is unacceptable—I am not making excuses for any failure on anybody's behalf—we are very lucky that the situation did not arise, as it has in other states.

This bill will increase the authority of the Ombudsman. We are very lucky in this state to have Chris Field as the Ombudsman. He has a very strong background in his career development to date. We are very fortunate to have such an outstanding citizen taking on the role of Ombudsman. It is very important to keep in mind that the Ombudsman does not work for the government. He is not an office of the executive. He does not respond to the executive. The Ombudsman works for us. He is the parliamentary commissioner because he answers not to the executive, but to the Parliament. Of course the Ombudsman does take his budget from the executive. As other speakers on both sides of the house have commented, we all hope that the Ombudsman will be resourced sufficiently to carry out these additional functions that are being given to him.

It is worth noting the background of the Ombudsman. The role commenced operation in this state in 1972. The Ombudsman in Western Australia was the first one in the nation. We have the good work of the late Premier John Tonkin to thank for this. This is one of his great legacies to the state. It was a very innovative approach to public policy in giving additional rights to ordinary electors in this state. He was the architect of that legislation. Now we are extending the Ombudsman's power by this important change. As I have already said, every child death is horrible, every child death is unacceptable, and there may be many reasons for family dysfunction. In those cases, this bill will allow the Ombudsman to look at all the issues surrounding them—not only the particular issues of the tragic circumstances of the child's death, but also the systemic nature of the issues involved that may have contributed to the circumstances that the child found himself in. That will be an important advance for the community in Western Australia. It is very important that we all work together as part of this new approach to the investigation of child deaths. I think it is very good that the agency will no longer investigate these circumstances. Although I think the people within the department who have been involved in investigating child deaths are dedicated people who are interested in finding the truth, the reality is that having them within the organisation that is also responsible for providing the care does not provide the community with the necessary transparency to show that the investigations are being done openly and in an accountable manner. Therefore, it is a very good decision to move those responsibilities to the Ombudsman and it is one that we should all support and commend.

Of course, we should also consider that the Ombudsman already has many rights and responsibilities in investigating matters in the public sector—that is the Ombudsman's role. Extending the Ombudsman's powers to do these additional investigations will build on the work that the Ombudsman does. In particular, I note that the Ombudsman's August 2006 "Report on Allegations Concerning the Treatment of Children and Young People in Residential Care" was a very good report in which the Ombudsman reviewed issues that arose from a public interest disclosure by a member of the department. The Ombudsman was able to investigate the circumstances of those children and young people in residential care who were the responsibility of what is now the Department for Child Protection. It is important that the August 2006 report arose from a public interest disclosure that was made under the Public Interest Disclosure Act 2003, which, of course, is the legacy of former Premier Dr Geoff

Gallop. Therefore, we can see the continuing line in the legacy of Labor Premiers extending rights and protections for citizens of this state from John Tonkin in the 1970s through to Dr Gallop in the twenty-first century. The August 2006 report was a good report into a very difficult subject and it allowed the Ombudsman to make recommendations for improvement. Therefore, we can see that the Ombudsman already has a wealth of knowledge and understanding that he can build on, although that report was not written by the current Ombudsman, Chris Field, but by the previous Ombudsman, Deirdre O'Donnell. However, members can see that regardless of the personality involved, it is the office that counts; therefore, the Ombudsman's office can build on that experience.

I also note the responsibility of the State Coroner in investigating child deaths. The coroner does not necessarily investigate every child death. However, the coroner has incredible powers and I would imagine that if a coroner chose to investigate a child's death, the Ombudsman would probably wait to see the outcomes of the coroner's inquiry. That would be a sensible approach for the parliamentary inspector to take, because the powers of the coroner are much broader and larger than the powers of the Ombudsman. The coroner, as a judicial officer, can make very sweeping recommendations, as we saw recently with the coroner's report into the deaths in Aboriginal communities in the north of this state. This is obviously an opportunity for an independent organisation, on behalf of the entire community, to investigate those deaths that the coroner does not investigate. It moves that investigation away from the responsibility of the executive so that there will now clearly be a proper, independent check on the operations of the executive. That is a very good decision and a very good outcome of this bill and it is why I support the bill. I also note the work and the recommendations of the Prudence Ford inquiry that was set up by the previous government. Of course, this bill arose from those recommendations, and again we can continue to draw that line through the activities of Labor governments in trying to expand the rights of ordinary citizens.

In conclusion, I return to my comment that all child deaths are unacceptable and we want to avoid them. If the Ombudsman can use these additional powers to investigate not only the particular circumstances of a child's death, but also the systemic issues that may have led to the death of a child in state care, then that is welcomed. I also welcome that the executive will be removed from those investigations and that they will be given to a parliamentary officer. I hope that, in the future, we and the community will be able to look back and see the good work that we all did as members of Parliament in a bipartisan approach and say that we were part of improving the circumstances of this state.

MR M.P. WHATELY (Bassendean) [11.56 am]: I am glad that both the Premier and Minister for Mental Health are in the chamber because towards the end of my speech I will build a case for some action I want both of them involved in. In the dealings I have had with the Premier and the minister, it is wonderful to see that we are beginning to have a relationship in which children's welfare is being put ahead of politics. They both know what I am talking about and I thank them for that.

I support the Parliamentary Commissioner Amendment Bill 2009. I think it makes absolute sense to have the Child Death Review Committee completely separate and independent of the department that is charged with ensuring child safety. Any child death from neglect or abuse is ultimately the failure of the system oversights by the Department for Child Protection and the Minister for Child Protection, so having someone who is independent and with the authority that comes with the office of the Ombudsman is a response that is well-suited to the investigation of these tragic circumstances.

When things do go wrong in a general sense there are two possible reactions that we get from government. The first and best reaction is a forensic response, whereby there is an examination of what went wrong and an understanding of the full circumstances so that we can ensure that it does not happen again. I think we are moving to that approach through the introduction of this legislation. The other reaction is a blame-avoidance approach, whereby people are basically motivated to cover their own backsides—I am not suggesting that that has happened in the past. However, when the service deliverer has to review its own performance, there is a danger of that happening. I think this legislation goes a long way to avoiding that.

Clearly, as was outlined by other speakers, we need a system of child protection that intervenes well before we have child deaths. We do not want to pick up the pieces tragically at the end; we need to have a system that intervenes early enough and effectively enough to protect children. Not all child deaths from neglect and abuse can be predicted or will come to the notice of the Department for Child Protection; that is the tragic truth. However, frankly, we must do whatever we can to reduce the number of child deaths to as few as possible by ensuring that warning signs are not ignored. Obviously, hindsight gives us perfect vision; however, we must make the system as robust as possible and I suggest that the measures we are taking today will help to achieve that.

I also touch briefly on the issue of mandatory reporting of serious child abuse. I understand the arguments against it, but I am happy that we have a system of mandatory reporting in place in Western Australia as a result of the changes that were made recently—last year, from memory, or maybe the year before. There is, of course, the danger that the system will be swamped, but I think that that possibility demands the response that we provide better resources for the system, rather than turn a blind eye. Western Australia is the wealthiest state in a very wealthy country, but we grossly underspend on issues surrounding children's welfare. I welcome the two recent initiatives of mandatory reporting and the actions that are outlined in the legislation we are debating today.

It is often said that children are the most vulnerable members of society; however, it is often said in a throwaway manner. Certainly, kids are worth investing in to a far greater extent than we already do at both state and national level. It takes time and energy to focus on children's rights issues. In the past I have spent a considerable amount of my time focusing fairly narrowly on one aspect of what I consider to be child abuse, which is the involuntary drugging of tens of thousands of Western Australian children, some as young as 18 months, with amphetamines. Members know that I am talking about ADHD; I will not talk about that today, although it is part of the picture that I will outline. My success in advocacy in that area has encouraged me to broaden my interest in children's rights issues.

I want to talk about the concern that I have about the number of kids who are in care in Western Australia, and who may be on a range of psychotropic medications. I want to make some suggestions about how we can address that problem. I am not talking only about ADHD medications; I am talking about things such as antidepressants and antipsychotic medication, as well as amphetamines and a range of other psychotropic medications. The best way that I can demonstrate the need to address this issue is to look at the consequences of having a system that cannot cope properly. In South Australia, the coroner is currently considering his findings in a widely publicised case—I am not making any fresh public announcements, so there are no issues about reporting to Parliament—of the death of a 10-year-old boy, Jarrad Roberts, who died from a common ear infection, which sounds absurd in this day and age. I will read a few excerpts from media on that issue. An article published on the website of *The Australian* on 20 March 2009 states —

THE family of a 10-year-old boy who died from a common ear infection was reported to child protection authorities fourteen times before his death.

...

The inquest into Jarrad's death in 2006 has today been told that a series of calls was made to the Child Abuse Report Line, ranging from issues of non-attendance at school and the children not being adequately fed to allegations of sexual abuse.

Lawyer Joanne Cliff said the first call to the hotline came in 1993, when Jarrad's sister Chantelle Klein was only three years old.

That was actually prior to Jarrad being born, so the family was known to authorities in South Australia prior to Jarrad being born. The article continues —

Jarrad died hours after visiting a local health clinic with his sister in October 2006. He had had an ear infection for the past few days, and a GP recommended he go to hospital for further treatment, but that advice was not followed.

There was further media coverage of the inquest. I quote from an article that was posted on the ABC website on 17 March 2009. The article is entitled "Dead boy's mother could incriminate herself: coroner". It states —

The inquest was told the boy lived in squalor at his mother's house in Prospect and was mostly cared for by his 16-year-old sister, who had attention deficit hyperactivity disorder.

Counsel assisting the coroner Amy Davis said the house was filled with rubbish, in some places up to a metre high and that there was a smell of faeces and rotting food.

The boy's sister ... said in the few days before his death fluid was leaking out of his ear and he became confused about where he was.

She said she took her brother to the doctor on the day of his death, but her mother did not want him to go to hospital.

The doctor had recommended that the boy be taken to hospital. One might ask what this has to do with psychotropic medication. The case was reported in another article, but connections were not made by the media in any significant way. I quote from an article that appeared on the *Adelaidenow* website on 19 March 2009. It refers to evidence given at the inquest and states —

THE family of a 10-year-old boy who died from an ear infection had access to 1200 prescription amphetamine tablets over a two-month period, a court has been told.

...

A doctor who treated the boy up to one and a half years before his death said he had alerted the family chemist about irregularities in their use of prescriptions for dexamphetamines after four scripts were filled out between September 30, 2004, and December 2 that year.

Evidence provided by paediatrician Dr Harry Nash —

This is very significant —

indicated the boy's prescription would only have required around 400 tablets for that period but scripts for 300 tablets each were filled on October 1, October 18, November 7 and December 2.

Here we have a boy who was not in care but should have been. The family was known to authorities in South Australia. The boy should have been in care, but as a substitute for care, psychotropic drugs were used to deal with this kid's serious underlying issues. We have heard that evidence of all sorts of abuse, including sexual abuse, was known to the authorities, but the authorities obviously failed in their obligation to ensure his adequate treatment.

It is also interesting that the paediatrician who was treating him was Dr Harry Nash. Dr Harry Nash is infamous, and his activities were exposed on *60 Minutes*. He was actually drummed out of practice in South Australia because of the very effective work of Dr John Jureidini, whom I have spoken about at length in this place. He had enormous concerns about Dr Nash's prescription practices. In fact, Dr Nash came to Western Australia for a short time. Even from those responsible for the very worst excesses of the ADHD industry in Western Australia, there were some quite strong concerns about Dr Harry Nash's prescription practices.

The point I am making is that this child obviously should have been in the care of the system and should not have been in the care of his family, given his history. As a substitute for adequate care and having his needs addressed, his behaviour was modified through the use of amphetamines. Although he and his sister may have been prescribed amphetamines to treat ADHD, given the evidence of the number of prescriptions, I suspect that there may have been some serious diversion going on also.

I am not suggesting that this child's death was caused by the use of psychotropic medication, but the only response to his circumstances was the use of such medication. This happened in South Australia; I have never heard of stories as horrific as this in Western Australia, but it is nonetheless a comparable jurisdiction. In my experience, South Australia is a jurisdiction that generally does not have a bad reputation for dealing with children's issues. Most of the horror stories that I have heard emanate from other jurisdictions. In my experience, Victoria probably has the best reputation, but South Australia certainly does not have the worst. But this is an example of a horrific outcome.

Is this an isolated case? I suggest not. My evidence for saying that comes from an inquiry that was conducted in New South Wales in November 2008. The purpose of that inquiry was to examine the prevalence of the use of psychotropic medication for children in care to deal with a range of behavioural disorders. I will read an excerpt from the media coverage of that inquiry. This article is from *The Australian* of 3 November 2008, and it reads in part —

One in four children who have been removed from the care of their parents and placed in foster homes are being heavily medicated to control their emotions and behaviour.

And 50 per cent of children under 12 who live in residential care—where children live in small groups under the supervision of social workers—are taking a psychotropic medication.

According to the annual report of the NSW Children's Guardian, 44 per cent of Aboriginal children in residential care are also medicated on drugs such as Ritalin, Strattera and Zoloft.

Ritalin is an ADHD drug, Strattera is a non-amphetamine ADHD drug that has a black box warning for suicide, and Zoloft is an antidepressant that is not to be prescribed for children under 18 years of age. The article goes on to say —

By comparison, the proportion of children nationwide on psychotropic medication is less than 2 per cent.

So, half of the children in residential care, one-quarter of the children in foster homes, and 44 per cent of the Aboriginal children in residential care are being medicated with drugs, as opposed to a national average of two per cent of children. The article continues —

The president of the NSW Foster Care Association, Denise Crisp, said it was a nationwide problem.

“We call it the chemical straitjacket,” she said. ...

The article also quotes Freda Briggs, emeritus professor of child development at the University of South Australia, as saying —

“It’s horrendous. Children in foster care are that much more likely than children in the community to be medicated.

“The foster carers always say that it’s so difficult to get therapy for the children in their care. They need counselling and support and the carers are told you have to wait a year to get an appointment, so it’s not surprising they turn to medication. ...

She is basically saying that because of the absence of adequate care for children in care, a range of psychotropic medications are being used on those children.

The article goes on to quote Kerryn Boland, the NSW Children’s Guardian, as saying that medication was normally part of a “behaviour management plan” for NSW’s 25 000 foster children. It should not be normal for medication to be used as part of a behaviour management plan. The normality should be that, except in exceptional circumstances, children should have their needs met and their problems addressed. Kids in foster care and in the care of the state obviously often have very complex needs and challenging behaviours, but they should have their needs met.

[Member’s time extended.]

Mr M.P. WHITELEY: Another article in *The Australian* of 4 November outlines the response from the NSW government to the comments that were made in the article of 3 November. I have to say about the NSW government that, regardless of the colour of its politics, I am far from impressed with its handling of child welfare issues and a number of other issues in which I have an interest. The article states —

Foster children are being medicated with psychotropic drugs at 10 times the rate of other children because as many as half have mental health problems, according to NSW Community Services Minister Linda Burney.

In a statement to *The Australian* yesterday, Ms Burney said “no one likes to see children on medication —

That is a nice, glib, throwaway line —

— but foster children generally have poor mental health and social competence compared with their peers and were therefore medicated.

She is basically saying, “We would love to do it properly, but these kids have problems, so what else can we do but medicate them?” There is evidence that there is a very real problem in New South Wales, because rather than dealing with the complex needs of these children in care, an enormous number of them are being drugged to manage their behaviour. One of the horrific consequences of that same approach to troubled children is the child death that occurred in South Australia.

That begs the question: what is happening in Western Australia with children in care? The problem is that we do not know. We do not have the details that are available in New South Wales. Anecdotally, I have heard stories of kids in care being medicated at a far higher rate than kids in the general community. However, we do not have the answer to that question. This is not a criticism of the new government, and it is certainly not meant to reflect badly on the new government. However, it is time we did ask what is happening with children in care in Western Australia. On 4 November 2008, I wrote a letter addressed to Hon Robyn McSweeney, Minister for Community Services, on this very matter. I have had conversations with the minister. It is fair to say that we share the same views on some issues. Hon Robyn McSweeney certainly made some public comments on ADHD very early in my time in the Parliament that were very strong—even stronger than the sorts of comments I was prepared to make at the time. I do not have a copy of the minister’s response with me, but it was basically that she was not proposing to take any action on this matter at this time. However, I am not without hope that the minister will take action on this matter. My letter states in part —

Anecdotal information I have received also indicates that the situation which the NSW Guardian has highlighted is prevalent amongst children in care in Western Australia. While I acknowledge that many of the children who enter into care have come from dysfunctional families, and the impact on them is enormous, the need to offer comprehensive support to the children without resorting to chemical control is paramount.

I would therefore like to request that a review is undertaken into the number of children in care who are currently being prescribed psychotropic medication.

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin
Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

I would like a full-blown inquiry to be conducted into this matter, along the lines of the inquiry that was conducted in New South Wales. However, failing that, I would like to get a fulsome answer to a question that I put on notice to the minister representing the Minister for Child Protection on 9 April. The question was —

What is the number and proportion of children in State care, both in institutions and foster care, that are prescribed the following classes of psychotropic medications:

- (a) Antidepressants;
- (b) Antipsychotics;
- (c) Amphetamines; and
- (d) Amphetamine-like substances (eg. Methylphenidate)?

The minister's response to that question was —

This information is stored on individual case files and is not itemised on the Department's information management system in a way that is reportable.

That is fair enough because that is an information response. I do not have a problem with that response because the minister is saying that the information is not easily accessible. The minister's response then says —

A manual check of all information on all case files required to provide this information would be a significant drain on the Department's resources.

If my request was flippant and was made for crass political purposes, or if it was made even though there was not a real issue, maybe that would be an appropriate response. I will probably be criticised for having asked four or five questions on notice since we have been in opposition, but I try to ask questions on notice that have a degree of gravity about them. In New South Wales, the figures for the number of children in state care—as opposed to children who live with their parents in normal circumstances—that are prescribed the medications I have mentioned are way out of whack. The rates of prescription are many times the multiple of the usual child drugging rates. Given the concerns that were expressed by people such as the president of the New South Wales Foster Care Association—there is evidence that in comparable jurisdictions there is a real problem—children's complex needs are not being adequately met by the system. Instead of having their needs met, a chemical cosh of psychotropic medications is being used to control children's behaviour. I am not saying that there are no circumstances when the prescription of medication is appropriate. I am not even saying that there might not be justification for a slightly higher incidence of prescription rates for short-term use for children in care. Perhaps it is because they come from traumatised circumstances, and that is justifiable. However, it is unlikely that that is the case, given the multiples that I have talked about. One in four children in foster care and one in two children in residential state care in New South Wales are prescribed the drugs to which I have referred.

Of course, all the figures that I am relying on are from New South Wales. I must rely on those figures because we simply do not know the answer to the question that I asked of the Minister for Child Protection. Again, my question simply asked the minister to tell us the number of children in foster care and state-run homes who are on antidepressants, antipsychotics, amphetamines and amphetamine-like substances. I would like to have a full-blown inquiry into this issue and to find out what the figures are. If they are out of whack with what would be expected given good case management, which I suspect they will be, I would like a full-blown inquiry to look into it. We should look at whether children in care are given adequate resources and behavioural interventions and whether foster parents are given reports on how to deal with often very traumatised young children. My question on notice, which is a very good starting point, is simply to find out what are the numbers.

The ACTING SPEAKER (Ms L.L. Baker): The member needs to keep his speech to the legislation that we are looking at.

Mr M.P. WHITELY: It relates to the numbers. I would hate to see an incident occur in Western Australia like that which occurred in New South Wales when a 10-year-old boy called Jarred was drugged and died of an ear infection under shocking circumstances because his needs were not met. I can see that members are concerned.

I am aware that the Premier had to leave the chamber briefly. I am not critical of the Minister for Child Protection, but on 9 April 2009 I asked her on notice —

What is the number and proportion of children in State care, both in institutions and foster care, that are prescribed the following classes of psychotropic medications:

- (a) Antidepressants;
- (b) Antipsychotics;

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin
Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

- (c) Amphetamines; and
- (d) Amphetamine-like substances (eg. Methylphenidate)?

I referred to a range of psychotropic medications. The answer I was given was —

This information is stored on individual case files and is not itemised on the Department's information management system in a way that is reportable.

I have no problem with that part of the response. In other words, the information is not readily available and it will take a degree of work to access the information. The second part of the response was —

A manual check of all information on all case files required to provide this information would be a significant drain on the Department's resources.

I accept that it would take a significant commitment of resources. However, until that is done and until we know the number of children who are prescribed that range of psychotropic medications, either in foster care or in state-run institutions, we will not know the extent of the problem. Hopefully my fears are unfounded. I hope also that a proper and fulsome answer to my question will reveal that these numbers are no higher than in the general population or are only a tiny bit higher, but I do not believe that that is true. I believe that we will find the opposite. I do not think the Premier was in the chamber at the time when I said that if I was doing this to make a crass political point and wanted to take political advantage, I would say it is fair enough that the government does not want to waste the department's resources on doing this research. However, I am not doing that. I genuinely want to find out whether the numbers indicate that we have a problem. If the data shows that we are in line with good practice, that will be wonderful and my concerns will have been baseless. I would like that exercise to occur and to know the number and proportion of children who are in either foster care or in institutions who are on a range of psychotropic medications. The answer that the Minister for Child Protection provided indicates that that information is available but that it would take considerable effort to get. It is not a case of the information not being available. I consider that the relatively moderate expense that would be required is justified and I ask the Premier, and the Minister for Mental Health, to the extent that he has any influence, to see whether that process can occur.

MR E.S. RIPPER (Belmont — Leader of the Opposition) [12.26 pm]: The Labor Party supports the Parliamentary Commissioner Amendment Bill 2009, which implements a recommendation of the Ford "Review of the Department for Community Development". In 2003, a good Labor initiative was to establish the Child Death Review Committee to examine the circumstances surrounding the death of children whose families had been in contact with the then Department for Community Development. Shifting child death review functions to the Ombudsman provides greater independence for the review functions. It also provides those doing the reviews with the full powers of the Ombudsman, including the power to interview staff and to look at the involvement of other agencies. The Child Death Review Committee, I think, had less capacity than the Ombudsman will have because of its inability to interview staff and look at the performance of agencies outside of the Department for Community Development.

It will be very important for the Ombudsman to be properly resourced to carry out these activities. The explanatory memorandum is ambiguous on this question, it states —

The Ombudsman's office will be able to implement Recommendation 30 —

Of the Ford review —

without any change to legislation and within the allocated resources that are required to implement Recommendations 31 and 32.

I seek an assurance from the government that resources will be transferred from the Department for Child Protection to the Ombudsman to allow these functions to be carried out in full. I also seek an assurance from the government that other adjustments will not be made to the Ombudsman's budget that will compromise his and his officers' ability to carry out these investigations. It is important to properly investigate the events surrounding the death of a child who has been in contact with the Department for Child Protection. It is important to prevent deaths like that from occurring in the future, if possible. Preventing deaths of children, rather than the follow-up investigation, obviously has to be the priority of the department. That is why it is very important to properly resource the Department for Child Protection.

The need for resources in the Department for Child Protection is growing. The number of children in the department's care grew by 20 per cent in 2006-07. At the time that I received this information, it was estimated to increase by a further 19 per cent in 2007-08. The minister has advised the public that this year the number of children coming into care has increased by eight per cent. Similarly, child protection notifications requiring investigation grew by 16 per cent in 2006-07 and, at the time I received this information, further growth of 16

per cent was expected in 2007-08. The government could provide us with more up-to-date figures of those pressures, but the Department for Child Protection is clearly facing an enormous increase in demand and requirement for services, and it needs to be properly resourced to deal with that. That is why in the last Labor budget expenditure for supporting children and young people in the care of the department was increased by 21 per cent. That is why expenditure for protecting children and young people from abuse was increased by 23 per cent. That is why expenditure for supporting individuals and families at risk or in crisis was increased by seven per cent. In a series of moves to improve resources for the department in at least two budgets, and outside the budget process, Labor altogether injected an additional \$500 million into the Department for Child Protection and it funded the employment of 500 new staff. One of the matters we will be looking at very closely in next week's budget is whether the government has not only maintained Labor's previous commitment, but also funded the growth in resources needed to match the growth in demand in this very important department. The government, when in opposition, spent a great deal of time talking about child protection. We will now be watching very closely to see whether the government can match with action, funds and staff the rhetoric it engaged in on child protection when it was in opposition.

I am proud of Labor's record on improving resources for this department. I expect that if those resources are maintained and grow in line with increasing demand, the protection of children will be improved. I see one great danger that might regrettably lead to more work for the Ombudsman investigating child deaths. Paradoxically, it is the danger of the implementation of mandatory reporting if the implementation of mandatory reporting of child abuse is not properly resourced. In other states where mandatory reporting has been introduced, child protection disasters have happened because mandatory reporting has not been matched by sufficient additional resources. Members might wonder why such an apparently good policy as requiring professionals to report suspected cases of child abuse could result in the paradoxical outcome of children being more at risk. It works in this way: if mandatory reporting is not properly resourced, the agency is overwhelmed with too many reports, not enough of which are investigated, so the really serious cases do not have enough supervision because the agency is chasing its tail investigating yet more reports coming in. There is therefore not enough support for those children and families most at risk. If mandatory reporting is not properly resourced, children will fall through the gaps and, paradoxically, there could be a worse outcome for child safety than in the absence of mandatory reporting.

The second issue I want to draw attention to is the shortage of human and physical resources even if financial resources are put into the department. We have relied for decades and decades on the goodwill of people who are prepared to be foster parents. I am very appreciative of the enormous contribution to our community that foster carers make. We are now facing a shortage of people who are willing to volunteer to be foster carers. More children are coming into care and more children are at risk. Mandatory reporting may uncover even more children at risk, and we have a shortage of people with whom to place those children. It is not necessarily the case that foster care, or indeed any care, is a foolproof solution for protecting children. There are cases in which children have been further abused in foster care. If we are concerned about children at risk and we think that the answer is institutional care, we need to know that historically institutions were places where there was significant abuse of children. We may face a circumstance in which we are required to return to the past and more institutional care because of the increasing numbers of children requiring care and the shortage of foster carers. We might then face more cases of child abuse in institutions. Let us not forget that the previous government established the Redress WA scheme to provide a measure of compensation to those people who had been abused in care sanctioned by the state over many, many decades. We have learnt in the past few days that 10 000 Western Australians have applied for redress under the Redress WA scheme; that is, 10 000 cases of alleged abuse in care in Western Australia over many decades. The establishment of that scheme is one of the answers to the allegation that somehow or other Labor squandered the boom. Funds generated by the boom are being used to redress a severe disadvantage that occurred over many years. I will be looking in the budget to see whether the government is maintaining the funds for Redress WA.

As well as properly resourcing the Department for Child Protection to investigate and care for children at risk, there are other ways in which we should act as a government and a society to prevent child death and child abuse in the first place. We must properly resource investigation and care, but we also need to properly resource family support mechanisms and parenting education. We need to ensure that parenting education programs are targeted at those people and those families most at risk. Too often we see that parenting education becomes a service for, as it were, the worried rather than people who regrettably, because of their lack of parenting skills, are a real risk to their children's health and safety. The Department for Child Protection and the Department for Communities should be properly resourced for their roles, but other departments play an important role in protecting children. The Department of Health, the Department of Education and Training and Western Australia Police all play a very important role in protecting children. For example, we can see the importance of the police service with the establishment by the previous government of the multifunction police

stations in remote areas, following the Gordon inquiry into child abuse in Indigenous communities. It is good to see that at last national commentators are recognising the effectiveness of the Western Australian response to child abuse in remote communities, in comparison with what seems to be the developing failure of the previous federal government's program of intervention in the Northern Territory. As a community, we need to look at and discuss other child protection issues apart from the need to resource the Department for Child Protection and the other major service agencies. The whole field of social policy has a great bearing on protecting children from abuse and on preventing the deaths that in this bill we seek to have investigated by the Ombudsman. Both mental health policy and mental health programs are important. Much of the neglect and child abuse that we see is the result of parental mental health issues and parental drug and alcohol addictions. Consequently, drug abuse programs and alcoholism programs need to be properly funded, properly resourced and properly targeted if we are to protect children. Also, we need to have positive programs in place to help people stabilise their lives and to give them the financial resources needed to properly care for children. Therefore, in times of economic crisis, job programs and training programs are ultimately important for the protection of children.

Finally, the government must commit to closing the gap between the circumstances of Indigenous people and those of non-Indigenous people. Regrettably, Indigenous children are severely overrepresented in the child protection statistics. We cannot address that issue without addressing the whole constellation of issues that contribute to serious Indigenous social and economic disadvantage in our society. This issue will be a real test for the Liberal-National government. After all the grandstanding it engaged in when in opposition, the Liberal Party now has a chance to show whether it can match its rhetoric in opposition with its actions in government. Can it match its rhetoric with actions to properly fund the Department for Child Protection and the Department for Communities—the major line-service agencies that will help, by their actions and services—to protect children? Can it match its rhetoric on child protection with proper, targeted, effective policies to deal with mental illness, drug abuse, alcoholism, job and training needs, and the circumstances of Indigenous people?

I want now to turn to a couple of issues of detail related to the bill. I do not have amendments to deal with these but I ask the Premier and the government to consider whether government amendments might be needed to deal with these issues, the first of which relates to the Commissioner for Children and Young People. There may need to be a clause in the bill that provides for a protocol for information sharing and cooperation between the Parliamentary Commissioner and the Commissioner for Children and Young People. The Commissioner for Children and Young People has the capacity to —

- inquire into any matter affecting the wellbeing of children and young people

And also to —

- monitor the wellbeing of children and young people generally in the community

This could conceivably cover the responsibility that is being transferred to the Ombudsman's office. An amendment could also reduce the possibility that both independent statutory bodies could waste resources by conducting the same investigations. Given that they are both independent bodies, both would be free to conduct the same inquiry if they saw fit. However, an information sharing protocol would allow each body to make that decision with the best possible information about what the other is doing—it could also enable information sharing where appropriate. It may be that it is possible for this to be done by administrative means. It may be that it is possible for the two agencies to reach agreement on a protocol without the legislation being amended.

[Member's time extended.]

Mr E.S. RIPPER: The other issue of detail that I want to deal with is related to schedule 1. The government is taking the opportunity presented by this legislation before the house to reorganise and amend schedule 1, which is the schedule of agencies exempt from the attentions of the Ombudsman. Clearly, it would be absurd for the Ombudsman to investigate the Auditor General and for independent agencies to be investigating each other. Consequently, schedule 1 includes the ability to restrain the Ombudsman from conducting investigations of other independent organisations. The children's commissioner is not listed in schedule 1 and that appears to me to be an oversight. The Commissioner for Children and Young People Act was passed quite recently and that could account for it not appearing in the schedule. However, if this bill is to amend the schedule, this is a good opportunity to add the Commissioner for Children and Young People Act 2006 to it. I ask the government to consider doing that.

Madam Acting Speaker, nothing could be more tragic than the unnecessary death of a child. Nothing could be more tragic in our society than that death being caused by the direct abuse or neglect of an adult who should care for and love the child. This is a very important issue. We need proper, independent and thorough investigations of the circumstances that surround the death of a child—particularly when a government agency is charged with the child's protection and has had contact with the child. However, a comprehensive range of strategies are also

Ms Lisa Baker; Ms Andrea Mitchell; Mr David Templeman; Mr Peter Abetz; Mr Bill Johnston; Mr Martin
Whitely; Acting Speaker; Mr Eric Ripper; Mr Colin Barnett

needed, as are sufficient funds and financing to deal with what unfortunately seems to be a growing problem in our society.

MR C.J. BARNETT (Cottesloe — Premier) [12.46 pm] — in reply: I thank members from both sides of the house for their contributions and, indeed, for their unanimous support for the Parliamentary Commissioner Amendment Bill 2009. As members have said, the bill transfers the investigative functions into a child's death from the Child Death Review Committee to the Ombudsman when a child is known to the Department for Child Protection—implicit in that is the transfer of resources.

A number of speakers spoke with great sincerity about the trauma and the tragedy of a child who is abused and of a child who dies. For the last financial year, the statistics are astonishing. In 2007-08, 106 children suddenly or unexpectedly died in Western Australia. Of those children who died, 61, or 58 per cent, were known to the department; that is, these children were known to be at risk, yet we still had that extraordinary and tragic loss of life. I in no way reflect on the department or on previous governments, but that is the reality of the past. As a number of members have said, the reality of child abuse and child death is now, at long last, out in the open where it should be. Returning to those figures: of the 58 children known to the department who died, 25 were aged six months or less—it is extraordinary that we are talking about babies—and two were in the care of the department; 30 of those who died were Aboriginal children and of those 59 per cent, or 34 cases, were in country areas. The figures are instructive and point to the extent of the problem.

In response to the comments made by members, there has been some pretty heated debate in recent years about a series of cases—notably that of Wade Scale, but also others—that include child abuse in both the Aboriginal and wider community. There has been a lot of debate in both houses of Parliament about the protection of children and we have progressed; we have moved forward. Members referred to Hon Barbara Scott, who deserves special recognition for her championing of, first, the need for a children's commissioner and, second, the need for mandatory reporting of child abuse. I acknowledge the points made by members about mandatory reporting. I have long been a supporter of mandatory reporting and the case made by Hon Barbara Scott. However, I am very conscious of the need to proceed cautiously and sensibly to make sure that the programs are successful.

I thank Madam Acting Speaker (Ms L.L. Baker) for her comments and her support for this bill in her capacity as the member for Maylands. She spoke at length about the need for adequate resourcing. I recognise that need. Resources were increased by the previous government and it is incumbent on this government to continue that. As the member pointed out, it is an area that is difficult for staff to work in. I can think of no other portfolio or area of professional care in which the pressure and the consequences of decisions made is so immediate and so dramatic. I take on board the comments about professionals working in that area and the responsibilities that they bear.

The member for Kingsley also expressed her support for the bill and urged that as members of Parliament we take up our responsibility to do all that we can to prevent the death of a child, and she stressed the need to act early and to identify when a child is at risk and to implement preventive measures. While this bill is about investigation after the tragic loss of a child's life, we all recognise that the real task is to prevent that child's life being lost.

Debate interrupted until a later stage of the sitting, pursuant to standing orders.

[Continued on page 3618.]