RESIDENTIAL TENANCIES AMENDMENT BILL 2011

Second Reading

Resumed from 18 May.

MR M. McGOWAN (Rockingham) [8.14 pm]: I rise on behalf of the opposition to speak on the Residential Tenancies Amendment Bill 2011 and to indicate to the house that the opposition is broadly supportive of this legislation which is designed to reform the Residential Tenancies Act and which has been around since the mid-1980s. This legislation is based upon a review of that act. It contains a range of provisions, most of which the opposition is supportive of. We have received considerable correspondence from various groups. Some groups suggest the legislation is broadly good; some groups suggest it is not so good. During the debate I will try to refer to each group to give them the acknowledgement that we have examined from what they have provided to us in relation to this legislation. Generally speaking, most of the reforms contained within the legislation are good.

The opposition received a briefing on this measure. It was interesting that there were up to six opposition members present at the briefing, and at the same briefing there were seven ministerial staffers to keep an eye on us—one for each.

Mr T.R. Buswell: No, there was not.

Mr M. McGOWAN: There was, actually.

Mr T.R. Buswell: Name them.

Mr M. McGOWAN: I can assure the minister there were seven ministerial staffers, because I asked them where they were from. As we asked around the back of the room, they said they were from the offices of Ministers O'Brien and Buswell. Who else was there that saw that? It was quite amazing.

Mr T.R. Buswell: Who were they?

Mr M. McGOWAN: I do not have a photographic memory so I cannot actually tell the minister all their names, and I do not think they actually told us. I am sure if the minister goes back to his office and asks, he will be informed that they were all there to keep an eye on us at this briefing about the various questions we asked.

At the middle table of the briefing were the officers from the Department of Housing. Maybe I got it wrong; maybe there were six ministerial staffers. They were sitting around the back of the room, and in the middle were the departmental officers of whom there were three relatively young officers, one of whom may have been a young lawyer, and two female officers who had been in the department for a while as they were obviously very knowledgeable about the matters involved. They briefed us while the phalanx of ministerial staffers sat around the back keeping an eye on us; one for each member of Parliament, as it turned out, to record our every utterance. We asked a range of questions —

Mr T.R. Buswell: Do you know what they said to me afterwards? Nothing to report!

Mr M. McGOWAN: So you confirm there were six?

Mr T.R. Buswell: No. I confirm they had a report that said there was nothing to report!

Mr M. McGOWAN: We had a range of questions. It was quite an interesting briefing. What came through was that there was a review conducted into the legislation. The review had been ongoing and widespread, many people had been consulted and it had resulted in the legislation. In relation to the provisions dealing with social housing, they said that was not contained within the review, and the provisions concerning social housing did not originate at the department. Rather, they were a direction from government. They were the exact words used. There were provisions put into the legislation which were a direction from government. I cannot begin to say I can read minds, but from the demeanour of the departmental officers, I could tell they were uncomfortable with some of the provisions directed by government in relation to social housing. I want to put on the record here that I am uncomfortable with some of those provisions. In fact, I and the Labor opposition will move to delete and to amend some of those provisions that deal with social housing—not all; some. I am flagging that for members of the Liberal Party.

The legislation contains provisions that will deal with public housing tenants differently and more harshly than it deals with private housing tenants. That is a fact. I think the minister will acknowledge that: the rights and obligations of public housing tenants will be less than those of private housing tenants. That is an intent of the legislation. We do not accept that.

Mr T.R. Buswell: It is actually a policy position of the government.

Mr M. McGOWAN: We do not accept that. We do not accept that the legislation should have provisions that are harsher on public housing tenants than private housing tenants. Therefore, we will move amendments to make it absolutely plain that whether a person lives in a public house or a private house, they have obligations, absolutely, but those obligations will be the same. There will be no discrimination between someone living in a public house in a street and someone living next door in a private house. There will also be no discrimination between landlords so that one set of landlords, public landlords, have greater rights in respect of their tenants than private landlords living in or owning a property next door. We will move those amendments to make it one rule for all. We do not think public housing tenants should be discriminated against. I cannot accept the policy basis that there should be a distinction and I cannot accept that those Homeswest tenants or those tenants in other forms of public housing who live in my electorate or in communities around Western Australia should have fewer rights in respect of their landlords than the private tenant living next door. Distilling what the Minister for Housing has said in relation to these matters, I think he has said that public housing tenants are in a privileged position compared with private housing tenants, and therefore the government will impose greater obligations on public housing tenants than it would private housing tenants. That is an absolutely gross generalisation. Many private housing tenants' rents might be less than that of public housing tenants. Many private housing tenants' properties may not be as good as public housing tenants' properties, yet we find that private housing tenants have greater rights and their landlords have fewer rights than the government. I have never voted Liberal, but I know a bit about the Liberal Party.

Mr T.R. Buswell: We haven't missed it!

Mr M. McGOWAN: I never swap sides, minister; I always remain true.

Mr T.R. Buswell: You spend a bit of time talking to a couple of our people.

Mr M. McGOWAN: I spend a bit of time talking to Liberal people?

Mr T.R. Buswell: The Blue Duck.

Mr M. McGOWAN: I have now lost my train of thought. The last time I went to the Blue Duck, I had lunch with a former leader of the Labor Party.

I would have thought that as a Liberal, as a defender of private property and the rights of people who own private property, the minister would have said that a private landlord should have the same rights as a public landlord. I would have thought that he would have said that a private landlord should have the same capacities under law as the government. It seems reasonable to me that a private landlord should have the same rights as the government and that the government should not have greater rights than private landlords. That is what we will move to amend. We will move to amend the legislation so that private landlords have the same rights as government. We will not allow the government to push ahead with legislation that provides government with greater powers and capacities than private landlords in our community. We will not allow that harsh hand of government to push down over those poor private landlords out there in our community, and for the government to say that the government and the Minister for Housing think that the government should have greater responsibility and greater rights than private landlords. Therefore, we will move to amend the bill so that both groups have the same capacities and that tenants, including public housing tenants, are not discriminated against and are not treated in a harsher fashion than private tenants.

Mr T.R. Buswell: Very noble!

Mr M. McGOWAN: I certainly think there is a point of principle here; I honestly do. It would have been easy for us to go along with what the minister says and join in the flagellation and flaying of public housing tenants that the minister engages in every now and again and to go along with the generalisations about public housing tenants that he also engages in. It would have been very easy for us to just go along with that and let this one through to the keeper, but when I read and looked at the legislation, I could not accept that the minister would treat someone living in a house in a public tenancy more harshly than the person next door in a private tenancy. To quote the Premier, I do not think that that is an Australian thing to do; I do not think that that is a Western Australian thing to do.

We will toughen one area that the minister deals with, which is illegality. When premises are used for illegal purposes, the great example being the drug labs that have been springing up like topsy lately—130 or 140 of them in the last year or so in Western Australia —

Mr T.R. Buswell: If you resource your police to look, they will find.

Mr P. Papalia: Oh, so that's what happened!

Mr T.R. Buswell: You should have resourced them all along. It is what happened.

Mr P. Papalia: For the first three years you didn't resource them and suddenly they've been resourced, so they're finding them this year twice as many times as they did last year. Good logic.

Mr T.R. Buswell: It is what's happened.

Mr P. Papalia: Did the budget increase by 50 per cent this year?

The ACTING SPEAKER (Ms A.R. Mitchell): Member for Warnbro!

Several members interjected.

The ACTING SPEAKER: Thank you, members, the member for Rockingham is on his feet.

Mr M. McGOWAN: As I said—the minister has distracted me once again—we will not discriminate against private landlords and we will not discriminate against public housing tenants. We will move to have things the same for everyone. We will move to delete some of the harshest aspects of those laws, but we will toughen up the laws relating to illegality, because there are some holes.

Mr T.R. Buswell: Member, can I just check, are you going to remove the bit that says if you cause a nuisance —

Mr M. McGOWAN: Can the minister please just let me speak? He will get the opportunity to respond; when he responds, I will interject on him as he does on me if he likes.

Mr T.R. Buswell: I always look forward to it.

Mr M. McGOWAN: I will explain what we propose to do. If there are premises on which an illegality has taken place, we will not say that a public landlord—the government—should be able to evict that tenant very swiftly through a court process whilst a private landlord of the house next door, which has the same illegality going on, will not be able to. We will say that both should have that capacity. I would have thought that as a Liberal, the Minister for Housing would have asked why a private landlord could not have the same capacity as the government, but apparently, under the watch of the minister, the dead hand of socialism sits there upon government. The dead hand of socialism is out there sitting upon him and the government's policy agenda so that private landlords will not have the same capacities as public landlords. On top of that, we will allow private landlords to more easily evict people who are involved in illegality in the rental property that they might own. On top of that, the current reading of the provision in the bill that the minister has proposed will allow for tenants who might have committed an illegality, such as having operated drug laboratory in the premises, to escape conviction because of the fact that a magistrate, I think, could quite easily read the minister's provision as requiring a conviction. As we know, recently properties have been exploding all over the place around Perth under the minister's watch. Houses are blowing up in our suburbs, people are being injured, people are being shocked and neighbours are being upset. The minister jumps in the car, races out there, meets with people and tells them he will do something about it. The provision that he brought in, which we will debate, could quite easily be read by a magistrate as requiring a conviction. I would have thought that, to have a property explode, with public or private rental tenants taken away by the police for having operated a drug lab, it would not have required a conviction for the government or a landlord to act quickly. I would have thought that Western Australians would think that was reasonable. The opposition is moving to level the playing field between public and private landlords and also to require that only "significant" evidence of that sort of illegality be presented. We are all familiar with some recent cases in which it is pretty obvious that the tenants have been engaged in some sort of illegality, even though there might not have been a conviction. The opposition thinks that when a clan lab has blown up on a landlord's property, the landlord might be able to order an eviction without requiring a conviction. That is a harsher position on illegality than the government's position.

Mr T.R. Buswell: What's your view about the ginger beer plant that blew up? The bloke's ginger beer processing unit blew up and they thought it was a clan lab.

Mr P. Papalia: Are you belittling the problem of clan labs?

Mr T.R. Buswell: No, I am not. I just asked the question.

Mr M. McGOWAN: The minister is in the Michele Bachmann camp of how to deal with serious issues. He is up there with her!

We are suggesting to the government that it should toughen up on illegality and make these provisions available for public and private landlords. We are also suggesting to the government that the provisions in the bill whereby only a public tenant can be evicted for being what the government terms a "nuisance" or an "interference" is too harsh. We are saying to the government that there are existing provisions and that we are quite happy for the government to use the existing processes that are available to it with regard to antisocial behaviour by public and private tenants. However, it is too harsh for the government to allow a court to evict a person on a first occasion for what the bill terms an "interference". We are suggesting that we will toughen up the illegality provisions in the bill and we will make it available for public and private landlords. However, we do not support the

government toughening up the bill so that a harsh magistrate—there are some out there—can evict a family on one occasion for being an "interference", as the legislation states. If we have a closer look at the provision —

Mr T.R. Buswell: It says "that the behaviour justifies terminating the agreement".

Mr M. McGOWAN: Some magistrates —

Mr T.R. Buswell: Not enough.

Mr M. McGOWAN: The minister has a different view from me. Some magistrates may not look at the facts and circumstances of the individual case as clearly as they should. I actually appeared before one of those types of magistrates 15 or 16 years ago. I thought he was a very harsh and inappropriate person to sit on the bench because of the way he dealt with people. Occasionally that will happen. The current system has checks and balances in it and these matters can be taken before the court. There might be time constraints and so forth, but they are all available to the government to use.

All I am saying is that we do not support that type of harsh treatment of people in circumstances when it is not warranted. However, we do support and are stronger than the government on the illegality provisions. In addition, we would remove the distinction between public and private tenants. That is the core point of our amendments. Although that is my view, I point out to the government that it is also the view of Anglicare, which is a good organisation that is filled with very good people. I will quote from the Tenants Advice Service, which is endorsed by Anglicare. A message sent to me by Ian Carter, Order of Australia, the chief executive officer of Anglicare WA, states —

> I have attached a position paper from the Tenants Advice Service (TAS) that very accurately represents the issues our clients face.

The submission by the Tenants Advice Service states that the provisions for social housing tenants were not included in the original review of the Residential Tenancies Act and that the Tenants Advice Service is extremely concerned that it and other community organisations have been denied the opportunity to respond to these proposals, which impact heavily on those with low incomes and a limited choice of housing. The position paper also states —

> The Bill has prescribed provisions on grounds a lessor can terminate the residential tenancy agreements so by allowing more grounds for Social Housing providers to terminate Social Housing tenancy agreements; it is a **direct discrimination** on Social Housing Tenants. Social Housing tenants and private tenants should be **equally protected** by the Bill. Discrimination of Social Housing Tenants by giving them less protection under the Bill compared to private tenants is in violation of Article 7 of the Universal Declaring of Human Rights.

I go back to the point I made earlier when I talked about the issue of a tenant being an "interference" or a "nuisance". The Tenants Advice Service paper, which is endorsed by Anglicare, states —

> 'Nuisance' in this section is intended to be less than a nuisance at law (see Explanatory Memorandum of the Bill). Presumably, this means there is a **lower threshold** of nuisance operating in relation to social housing tenants who are reported by neighbours as being more than a mere annoyance or inconvenience. As this provision does not apply to tenants in private rental it is a **very obvious discrimination towards social housing tenants**.

That is unconscionable. We cannot have a rule for one group of tenants and a different rule for a group of tenants living next door.

Mr T.R. Buswell: Lucky it isn't a franchise.

Mr M. McGOWAN: The member might joke about it, but we are talking about real people, some of whom have issues. I do not deny that some of them have issues, and I have endorsed taking a tougher approach towards dealing with people who are behaving badly and causing problems in our community. However, as I will keep repeating, there are also private tenants who do that. Often that type of behaviour is caused by people who own their own house and who cannot be kicked out because they own their house. In my view, we cannot allow one landlord to have the ability to deal with these issues while another landlord does not. That position is endorsed by Anglicare, which also thoroughly endorsed the Tenants Advice Service's submission on these matters that was provided to all of us.

The opposition's amendments go further than some of the government's. I will repeat the opposition's position because other members have arrived in the chamber. The opposition does not believe in discrimination against public housing tenants. We believe in having a tougher position on illegality than the government's position, but we do not believe in putting people on the street for what is termed an "interference" without going through the

currently available processes. Our amendments would enable the Commissioner for Children and Young People to be brought in upon application when young people are involved and for the Mental Health Commission to be brought in upon application when people with a mental issue are involved. Often the tenants, whom the government intends to evict for one of the purposes it is proposing, have children, many of whom do not have much of a chance in life. If the government is to undertake these sorts of policy responses—it has the numbers, and so it will—the opposition believes that this amendment will allow the court to order, in the case of children, the involvement of the children's commissioner. If a family is to be evicted for whatever reason from the place in which they live, it is not the fault of the child. If the child has been playing up and causing problems for neighbours and so forth, they are children; that is what children do. They do not behave like adults. That is almost the definition of childhood. Therefore, the only thing to do in good conscience is to involve those agencies that might be able to assist and to give the court the capacity to order that involvement by, for example, the children's commissioner. That is our example of what could be done. The government may come up with other organisations such as the Department for Child Protection. Give the court express capacity, when evicting someone in those circumstances, to bring in those agencies as soon as possible. On top of that, there may be evidence of mental health issues. A lot of people who live in rental properties will have mental health issues. A lot of people who own their own property might have them as well. However, I think we would find that a greater proportion of people living in public tenant housing will have mental health issues. I was speaking to a very senior journalist who told me she had been talking to people who were head injured in motorcycle or car accidents for the most part. However, people suffer head injuries in a multitude of circumstances. Many of these people are now incapable of working. Many of them have disorders as a consequence of their injuries. Those disorders often manifest in unusual behaviour and sometimes in a way we would deem inappropriate. It is not the neighbours' fault. Everyone should have the right and the capacity to live their life in relatively quiet enjoyment. However, in the case of people who have suffered a head trauma and now behave in ways that are not appropriate or that are loud or violent, the opposition suggests that if the government insists on proceeding down the track of this legislation, it should bring in the capacity for the court to order the involvement of the Mental Health Commissioner. The amendments on the notice paper provide, in the first place, for the involvement of the Department for Child Protection and, in the second, the Mental Health Commissioner. Obviously, these are opposition-drafted amendments. If the government came up with a better version, using all the resources of government, that would be a good thing. The opposition would support the government if it wanted to bring in those agencies to assist those people.

It is a conundrum. People in our society deserve to live in quiet enjoyment; that is, to enjoy the right to live in their street, in their community, in their suburb, their town and their apartment or residence with quiet enjoyment. Neighbours interfering with that enjoyment is something that obviously upsets a lot of people. On the other hand, the conundrum is that many people in our society have mental health issues. They have behavioural issues. They have families who visit them with whom they have difficulty dealing; they may have difficulties making those family members not visit. Homeswest has, over time, perhaps got the balance a little bit out, and has not been as tough as it could have been. Therefore, we have supported a tougher policy response, but, as indicated by way of these amendments, we suggest that some of the government measures in this legislation are too harsh and discriminatory. Perhaps there are ways to ameliorate this problem by using some resources of government, such as the Department for Child Protection and the Mental Health Commission, to deal with it. Amendments on the notice paper will enable the government to do that. However, as I have said, if the government wants to come up with its own version of those amendments, that would suit us just fine.

I have received considerable correspondence from another group, and a gentleman by the name of Vaughan Wilde from the Property Owners' Association of Western Australia. He is a private landlord and he represents private landlords. Mr Vaughan Wilde from the association has been doing a fair amount of work and a fair amount of submission writing on these matters. The association believes the legislation is way too harsh on a range of private landlords, particularly in relation to some of the penalties. Mr Wilde has stated in his submissions —

> I wish to draw your attention to the draconian fines being imposed on Owners/Lessors and real estate agents … in the changes to the Residential Tenancy laws.
>
> $20000, $10000, $5000, $3000 fines is outrageous, look in todays papers where people are in court for assault they get a $1500.

He refers to some of the much higher fines available under this legislation for landlords and the much lower fines available for tenants. He raises all these issues. I think that he is of the view that the government has not listened to him and has not really taken much account of property owners' concerns.

I will not move amendments on these matters; I do not want to unnecessarily delay the legislation. However, I think that Mr Wilde has a point about some of the fines. They seem to be quite high in some matters relating to landlords. We might therefore have a look at some of those issues during the consideration in detail stage of the bill.

The other provisions of the bill deal with those matters contained in the review the department conducted over a period of time and which was always intended and which consulted various interest groups. I think some of the provisions are quite good. I will go over them quite quickly. All residential tenancy agreements will be in prescribed form, no doubt making it easier for landlords and tenants. Provisions in the bill require that a property condition report be completed at the beginning and the conclusion of a tenancy agreement. It provides for a central bond administrator; albeit I think there is already one, but it will standardise the process providing greater transparency for tenants and for the safekeeping of bond moneys. It will clarify the provisions about who can appear before the court. Apart from criminal matters, I think members would find that the greatest proportion of matters before magistrates are to do with property issues between landlords and tenants. Therefore, I think there has been some confusion about who can appear and whether tenants must always represent themselves and whether landlords have to represent themselves. This will provide an opportunity for a representative to appear on behalf of those people—the landlord and the tenant. The legislation provides that a property manager may represent a landlord in the Magistrates Court, and also allow the tenant to be represented by a not-for-profit organisation, such as a community legal centre. That is a good thing. A lot of people are not very articulate, do not like appearing before the courts and do not understand the process, and having someone who can represent them without having to pay for a lawyer is a good thing. To clarify that in this legislation will be a good thing for everyone.

The bill will require any tenant to be provided with a minimum of 30 days' notice before a property can be repossessed. Apparently, it is not uncommon for some tenants to discover that their home is to be repossessed by their landlords' financial institution when a bailiff attends the house to change the locks. The landlord goes bankrupt, the bank comes along to repossess the home and the tenant finds that the locks are changed on the place in which they live. Everyone would have to say that is highly unfair. Therefore, this legislation will provide a minimum period before a property can be repossessed by a financial institution.

Lastly, one of the main amendments to the legislation concerns the database industry. The database industry can be quite unfair on people. Often, people seem to be blacklisted in cyberspace because of something they know nothing about. A person might arrive at a landlord's office or a real estate office to try to obtain a property and they suddenly find that their name is listed and they are unable to obtain a property that they might want. Obviously that is a very, very difficult thing for a lot of people to overcome. It is often quite unfair because the listing is dated and does not represent recent information, or it is based upon a false representation by a former landlord, or some sort of gossip or ambiguous information has been provided and has somehow got onto one of these databases, and then the person is basically homeless. It is very difficult for that person to get into a property because the real estate agent will access that database and the person, as a perfectly good citizen, will find it very difficult to get somewhere to live unless they buy their own home. That situation is clearly unacceptable. This bill provides some model provisions to enable people to check the information about them that is listed on the database and seek to correct that information if it is wrong or out of date. I understand this has been implemented in other states and the states are relying upon national provisions. That is a good arrangement that has been put in place to make sure that people will, hopefully, overcome that situation.

As I just outlined, five or six major parts of this legislation are good and represent the combined wisdom of a long period of consultation and work between the government, as part of its review, and various aspects of the tenancy industry on both sides—people representing tenants, the not-for-profit sector and also landlords. All those things are good changes to the legislation.

As I said, broadly speaking we support the legislation, but we do not support some aspects of the social housing provisions that the government has put in place. Therefore, we will move to amend the legislation to delete and to amend those provisions that I earlier indicated we do not support. That is a significant policy difference between the government and us. I do not think it is necessarily a policy difference; it is more a point of principle about how people might be treated and whether we can treat one group of people differently from another group of people depending upon who the landlord is. I do not think we should. We will take that up in the consideration in detail stage. We have the force of right on our side in doing that and we have the obligation to make sure that the government does not give favourable treatment, if you like, to the private sector, which is what it is going to do. Both in the case of tenants, more importantly, and landlords, there should not be one rule that provides a heavier capacity for government than it provides for private landlords and a greater obligation for public tenants than it does for private tenants. That is the way we will be moving to amend the act later in this debate.

MR C.J. TALLENTIRE (Gosnells) [8.55 pm]: I rise to make a contribution to this debate on the Residential Tenancies Amendment Bill 2011. I would like to begin by focusing on the aspects of the bill that deal with the problem of antisocial behaviour, which is a problem that many of us face as members of Parliament. Constituents regularly come into our offices to complain about problems with neighbours and perpetrators of antisocial behaviour. I must admit that sometimes when someone comes into the office and tells me that they have a problem with a series of antisocial acts from neighbours, the initial assumption can be that it is from someone who lives in a Department of Housing property. That was my initial reaction to cases that would come into my office. But I have since learned that this problem of antisocial behaviour is not at all confined to people who live in public housing. It happens in private rentals and in privately owned property. Therefore, we have to be very careful with this legislation focusing so strongly on tackling antisocial behaviour that occurs with people living in Department of Housing properties. Antisocial behaviour is a problem that occurs in our neighbourhoods, but it is much more widely spread than neighbourhoods with Department of Housing properties. We have to tackle the problem more broadly.

Just today one of my constituents had an article in my local paper. Mr Toni Miocevich of Astinal Drive in Gosnells has been greatly upset by acts of antisocial behaviour by his next-door neighbour and he does not know where to turn. He is an ex-policeman. He has certainly used his contacts in the police force to ask for action to be taken. It is basically a breakdown in neighbourly relations that has led him to the situation he faces. This is a case in point; the perpetrator of the antisocial behaviour does not live in a Department of Housing property. He owns the property. He might have a mortgage on it, but he owns the property. We have to make sure that our tackling of antisocial behaviour is not left to uses of the Residential Tenancies Act where it applies to publicly owned housing. We have to ensure that our approach is much broader. As the member for Rockingham has said, we also see problems with private rentals. People in private rental properties are also the perpetrators of antisocial behaviour. Therefore, we must make sure we have the mechanisms to tackle that problem.

Another growing sector in the social housing area is community housing. Constituents have come to me with problems and said that the antisocial behaviour is by people who live in a house owned by a community housing organisation. I refer to one case in particular with Access Housing, a group with a very good reputation that I am sure is well justified. Access Housing is generally a very good manager of tenancies, but I know that in one instance a person lived next door to an Access Housing property and was suffering all kinds of antisocial behaviour. It took the tenant a very long time to get the property manager, Access Housing, to take their complaints seriously. Therefore, we need to make sure that community housing is covered by the same provisions as public housing and that the managers of the tenancy contracts tackle the problems in the same way.

I know that there are concerns about vexatious complaints. There is always the fear that sometimes people will make vexatious complaints about the antisocial behaviour of some tenants. That is a risk, but with a well-established complaints procedure, we can soon weed out those vexatious complaints and make sure that there is a legitimacy to the complaints presented.

Other people in Department of Housing properties—people who live next door to people in complexes—also have lots of problems. The typical range of problems includes loud music late at night, cars going in and out at all sorts of hours, late-night visitors and the suspicion that drug dealing is going on in a property. Naturally, as a member of Parliament, my first inclination is to recommend that people ring 131 444 if they have any suspicion at all of criminal activity. However, people feel that their complaint to 131 444 falls on deaf ears and that no action is taken. I do my best to reassure them that, at the very least, the police will try to attend at their soonest availability and attempt to plot the statistics of various reports and therefore build up a pattern of what is going on and establish how rosters should be shaped for different patrols. People are encouraged to make those sorts of complaints to tackle these problems. Nevertheless, people are constantly suffering from different, ongoing problems when it seems that different agencies, such as Access Housing or the Department of Housing, are not picking up on the initial complaints. I think this is a failing in our current system. When there is a problem in a house, such as constant partying or a series of late-night visits on weeknights or on weekends, and often young children are involved, there is clearly a breakdown in the social and family function in that house. These are signs of problems with a dysfunctional family. When agencies get those sorts of reports, they should be able to quickly intervene and perhaps use these early warning indicators as a means of recommending that a family engage in a program such as the Strong Families program or the Department for Child Protection's parent support program. Those sorts of things must be used as soon as we get the initial reports. Those triggers are vital. We need to use these early warnings and then follow-up on them as well. If there is still no improvement, obviously it is a problem that needs further investigation and needs to be tackled. This legislation probably provides for more rigorous action than was previously considered.

Listening to the minister's second reading speech, I was concerned that the amendments referred to landlords, tenants and property managers as the key stakeholders. However, when it comes to the dimension of antisocial behaviour, it is very important that the interests of neighbours are considered as well.

There were some other aspects of the second reading speech that concerned me. In particular, there was talk of tenants generically being in the 20 to 34-year-old age group. I think there is too much stereotyping of the profile of tenants. The view that comes with that is that tenants are second-class citizens. Once that mindset creeps in, we see all sorts of unfortunate things occurring. I am particularly worried about the way in which property managers of private rentals conduct property inspections. Although the legislation outlines a process to be adhered to when it comes to property inspections, too often I hear stories of tenants finding that the property owner or the landlord's representative turns up on the doorstep and asks to inspect a property. There is the ongoing problem of treating tenants as second-class citizens. In reality it is far from the case. Many people in a tenancy situation choose to be there. Perhaps it is their financial circumstances, or it might be their lifestyle choice, that at a particular point in time it does not suit them to own property. We have to get away from treating these people as second-class citizens.

The legislation also refers to the rights and obligations of landlords and tenants. It refers to reducing the disputes between tenants and landlords and preserving investment in the private rental market. One of the biggest reasons that people use to convince themselves to become landlords in the private rental market is probably to receive the negative-gearing benefits. That is the main driver for many people owning property for rental.

Another part of the minister's second reading speech looked at an issue that is of grave concern to everyone—that is, residential tenancy databases; blacklists of tenants who somehow have blotted their copybook with late rental payments or perhaps bonds from a previous rental property not being fully refunded. Those circumstances are ones that a person should be able to verify, because there is the potential for a great deal of inaccuracy in the maintenance of these tenancy databases, and it could carry enormous prejudice on someone. Someone might find that they cannot get a rental property because they have been placed on a residential tenancy database. I would like to look at the other side of the coin on this issue; that is, many private landlords fail in their obligations. It would be quite reasonable to have a blacklist for landlords. Many landlords fail to fulfil their obligations, fail to respect the maintenance needs of a property and fail to provide sufficient warning to tenants that they are going to come in and inspect the property. They fail to do those decent things.

Mr T.R. Buswell: Member, what would you do with it?

Mr C.J. TALLENTIRE: I think if there were a blacklist for landlords, it would be publicly available and people could make judgements about whether or not they would rent a property from someone who is on the blacklist. It would be a way of providing information that could be useful.

Mr T.R. Buswell: So it would be informational rather than financial information.

Mr C.J. TALLENTIRE: I think so. It could be information about the delay in the time that someone took to refund a bond. To that extent, it could be financial. There would also be a lot of concern about poor maintenance and failing to give adequate warning for property inspections—those three-monthly property inspections that people have to endure when they are in a tenancy situation.

It is a tricky thing at this time of our property market. When it comes to properties for sale, we have a very flat residential property market. At the same time we have a rental market that is heating up. I think the vacancy rate has dropped down to about 3.5 per cent, whereas previously it was up at around four per cent. That means that there is increasingly a competitiveness in our rental market. It means that people are queuing up to inspect properties and outbidding one another to rent properties—offering $10 or $20 more a week for the rental of a property. So it is a competitive market. That means that we need to set some basic standards, and we have to ensure that if people go for the cheapest property available, that property meets certain standards. I will return to this issue and the quality of the housing that is provided. That is a very important point that I will come to.

Before doing that, I indicate that there are clearly some very strong points in this legislation, such as providing greater periods of notice to people who have been informed that there is a mortgagee repossession. Obviously, that gives a tenant a bit longer to find alternative accommodation. There is the potential for people, if there is a dispute, to be represented in the Magistrates Court, and for the tenant to perhaps get a not-for-profit organisation to represent them or for a property manager to represent the landlord. Those sorts of arrangements should be helpful to people.

I have already touched on other issues about properties held by the Department of Housing and how it tackles the issue of antisocial behaviour. I believe that we must use any indication of antisocial behaviour as an early-warning device so that people can be put into programs before the problem becomes one whereby the neighbours are just baying for the people to the evicted from their house. I have certainly faced those situations in which a

neighbourhood has been so upset by the antisocial behaviour of one household that the only thing that they would contemplate hearing was that the neighbours from hell had been evicted. The idea of those neighbours being put into some sort of program to improve their behaviour was never going to satisfy their wishes. However, had the problem been tackled earlier, it may have made all the difference. But because we have the tendency to ignore those initial complaints, the dysfunction is apparent but not acted upon, and that is a real problem.

[Member's time extended.]

Mr C.J. TALLENTIRE: I have touched on the poor quality of housing. I know that the government has committed to do an audit of the quality of housing. Just as we want to respect the human rights of people to have a home, we must respect their right for it to be a decent home. There are too many instances of people living in rental homes that do not meet basic standards. I note that the United Kingdom now has a program called the Green Deal. The Conservative-led coalition government in the United Kingdom has embraced this program because it is aware that in the UK there are many draughty homes that are poorly insulated. As the Secretary of State of Energy and Climate Change says, they are leaking heat and using other energy. That is something we must tackle. I know that the Barnett government has committed, through the 2009 Council of Australian Governments agreement under the national strategy for energy efficiency, to do an audit of all public housing. That audit will look at energy efficiency performance. I do not know where that audit is at, but it is already well overdue, so I hope that the minister will be able to explain where that audit is at. Perhaps it is an audit that could be carried out at the same time that the usual inspections of public housing should be carried out. As the departmental officers are checking on the wellbeing of tenants of Department of Housing properties, the department could also have someone undertake an audit of the energy efficiency of a property to check that it has decent insulation, security screens and ceiling fans—those very basic things that can make a home much more comfortable but not more expensive to live in. Those things must be brought into effect.

Of course, things can be done with other rebates. I am sure that if the state government had had a positive spirit, embraced the federal government's policies on home insulation and recognised that in Western Australia those people in the private sector who were able to access home insulation benefited greatly from it, there would have been scope for ensuring that people in public housing also were able to access various programs for things such as insulation. However, I realise that some people opposite are all too easily seduced by the federal Leader of the Opposition's talk about the pink batts program, when in fact in Western Australia that program has been incredibly successful. I know that in the area in which I live many people were able to benefit from it.

Mr T.R. Buswell: There are quite a few dead people as a result of Peter Garrett's pink batts program.

Mr C.J. TALLENTIRE: Not in Western Australia at all. Does the minister know of any deaths in Western Australia?

Mr T.R. Buswell: I didn't say in Western Australia; I said that there are quite a few dead people, unfortunately, as a result of Peter Garrett's mismanagement of the pink batts program.

Mr C.J. TALLENTIRE: I think it might have more to do with poor contractors. There was perhaps a need to check the quality of some of those contractors, but —

Mr T.R. Buswell: Peter Garrett was made aware of the departmental concerns about that and chose to do nothing about it. That's why he got moved; that's why he got the sack from that portfolio.

Mr C.J. TALLENTIRE: Dodgy contractors have let everyone down. But the fact is that many homes in Western Australia now have good-quality insulation and are benefiting from it. Therefore, to say that the program was a failure in Western Australia would be absolutely false. We need to acknowledge that it has made a great contribution to the quality of Western Australian properties.

I was speaking about the need for the audit to make sure that we bring Western Australian rental properties up to a satisfactory standard of energy efficiency, comfort and affordability in terms of running costs. That is absolutely essential. The minister knows well that the residential mandatory disclosure scheme is coming in. The government has committed to it. I have spoken on this on a number of occasions in the house. This is the scheme under which a house can be sold or let only when someone has disclosed the energy efficiency rating of the home. People in rental accommodation should be given access to that scheme. Just as we expect people to behave well when they have access to public housing, we should also share with them the right to have a home that is a comfortable, decent dwelling—a place where they will not wake up feeling uncomfortably cold and where their children will not get sick because the house is draughty or has leaks in the roof or because there are all sorts of pest invasions. Unfortunately, these are the sorts of things that we hear about.

I believe that the Residential Tenancies Amendment Bill should provide for better standards in housing accommodation right across Western Australia for people who are struggling financially. People are in public housing for a reason; it is because they are not particularly well off. We must treat them as the decent human beings that they are and give them quality accommodation, and make sure that they are able to enjoy it. Of course, if their financial circumstances change, I support the government's actions that ensure that people then move on to private rentals or to private property ownership once they have been able to establish themselves, find their feet financially and pay their own way.

I will quickly touch on some of the recommendations that I have received from my local legal centre, the Gosnells Community Legal Centre. It is very supportive of provisions in clause 41 of the bill that relate to domestic violence. It has cited some terrible examples in which people who sought to terminate a rental agreement because of a domestic violence situation have felt that they had to stay in that situation and at that property because of the rental agreement. The legal centre reported —

> One real estate agent stated *"they* —

That is, a couple —

> *should never have signed the lease agreement if they were in this situation"* and *"the owner grants tenant permission to move out of the property but rent will be paid until end of the agreement."*

That lack of appreciation of the very sad circumstances some people face is appalling and I think it is good that the bill picks up on how we should treat those sorts of circumstances.

There are some other areas that Gosnells Community Legal Centre also supports, but there are areas that it is unhappy with as well. It is particularly unhappy with clause 63 of the bill and strongly opposes it. The centre states —

> We are of the opinion that the current "without grounds" provisions … of the RTA … are unfair, unreasonable and breach the human right to housing.

The centre feels that clause 63 is an unreasonable clause to put in.

I look forward to being part of the debate as we go into further detail on this legislation. I trust that the outcome will be that we as Western Australians can look at our public housing and private rentals and see that there is an even-handedness in the legislation that governs all residential tenancies, that people are treated in a fair way, that antisocial behaviour is tackled at an early stage and that we do not menace people with the idea that their property will be taken from them when a simple intervention program could turn around their behaviours that are causing upset. Of course, people have to realise that they are fortunate to have social housing and that they have an obligation to respect certain standards, but I think we have to be very careful on just how far we go when it comes to pushing people with provisions in legislation that put their right to a dwelling at risk. I conclude my remarks with that and I look forward to the rest of the debate.

MR D.A. TEMPLEMAN (Mandurah) [9.23 pm]: Thank you, Mr Speaker, for your forbearance. The Residential Tenancies Amendment Bill before the house tonight is a very important piece of amendment legislation. When we consider that the bill amends the Residential Tenancies Act 1987, it is interesting to note that, from my understanding, there has not been any substantial amendment to this act and that the legislation was passed some years ago.

I have already listened to a couple of speakers and I thank them. I appreciate the issues raised by the member for Rockingham and the member for Gosnells. Obviously, some other speakers will make contributions tonight. I think it is important to remember that this amendment bill tries to ensure that there is an element of fairness for all parties—tenants and property owners—and that there are clear guidelines for the people who work in the real estate industry and the associated industry of the management of public housing and private rental housing. There is no doubt that private rentals will continue to be an important and significant component of the housing stock for many Western Australians. The member for Gosnells is right: many people have to rent because of their financial circumstances and indeed the reality is that they will probably rent for many, many years, if not the rest of their lives, or as they get older they will rely on public housing, but there are also people who increasingly are choosing to rent as an option. They have decided for whatever reason that renting is the option for the provision of their accommodation into the future. That rental accommodation can vary in its opulence or otherwise. Indeed, those of us who have been working on the caravan park and park home inquiry know that many people who choose to live in caravan parks or park home complexes do so for the lifestyle. It is an argument I would not have engaged in with anybody who chose that option for their lifestyle.

When we contemplate this bill, I think it is important that we consider whether the tenant or the property owner as such is given too much of an advantage over the other. At the end of the day, all of us know examples in our

communities of what is blatantly unacceptable behaviour in neighbourhoods. I think, as the member for Rockingham and the member for Gosnells quite rightly highlighted, there has been a tendency—sometimes quite often—to focus or sheet home the blame for such behaviour on public housing tenants. The reality is that abhorrent, unacceptable behaviour within neighbourhoods throughout the state is perpetrated by a variety of people; some who own their own homes, some who have a mortgage on a home, or indeed some who rent private, community or public housing. Therefore, we need to ensure that we do not tar every person who chooses to rent with the same negative brush, and we particularly need to ensure that we do not stain people who are in public or community housing. I think the member for Rockingham highlighted that the key difference between the opposition and the government on this bill will probably be the clauses that relate to treating everyone the same. The member for Rockingham made the point that it is our view that there should be no difference between people in government tenancies, for which the government, through its agency or even through a joint venture with a community housing operator, is ultimately the landlord, and a landlord who rents their property out.

I am sure some members in this place have rental properties and probably have had experiences with tenants, whether they have maintained the rental property themselves or had an agent. From time to time, problems occur with tenants that, unfortunately, cause grave headaches for the landlord and/or the agent who is given control of that property on behalf of the landlord. I think this is where Mr Wilde—who has been quoted by the member for Rockingham—comes to the forefront. Mr Wilde is in fact an elector in my area—not in my electorate but in the neighbouring electorate of Dawesville. I have spoken to him on the phone and received similar letters that the member for Rockingham highlighted. Mr Wilde is a member of the Property Owners' Association of Western Australia. From memory, he personally manages up to three properties. He has had varied experiences with some of his tenants—some very positive; some not so positive. He has highlighted a range of concerns about this bill in a letter. These were included in a letter to Hon Simon O'Brien, who of course is the minister with carriage and responsibility for this bill. Unfortunately, the letter is not dated but I understand it is a recent one. I think it is important that the issues Mr Wilde highlighted are heard and certainly noted in this place. I will be interested in the minister's response to some of these points. In the letter to Hon Simon O'Brien with regard to this amendment, Mr Wilde first of all cited the number of notices of hearing just for one day; namely, Thursday, 2 June 2001. He highlights —

> You will notice a number of people that have been summoned to the court for breaching their tenancy agreement, 19 in all that one week and those are only the ones that there is no known address. Who knows what the true total is.

Mr Wilde estimates that it is more than 1 000 a year. He then listed in that same letter the number of court notifications to the end of March 2011. I understand this was over a five-week period. These were applications to the court via a magistrate for disposal of security bonds. He points out that there are a huge number of disputes, particularly over security bonds and the holding of security bonds, every week in our court system. His argument is that there needs to be a better system to reduce the number of what seems to be a steady stream of agents representing property owners fronting up to court to get an application for disposal of security bonds; in other words, access to bonds held to pay for costs endured once the tenant has either left the property or, indeed, been evicted. I do not know whether the minister has this letter, but the figures were quite amazing, from what I can see. Mr Wilde claims there were 6 124 applications for disposal of security bonds in Perth central over a five-week period. That is just for Perth. In Armadale, there were 847 applications; in Fremantle, there were 381; in Joondalup, 661; in Midland, 543; and in Rockingham, there were 358. Then it is broken into country and regional areas. I am pleased that Mandurah is listed as a regional centre. In places such as Busselton, there were 102 applications; in Bunbury, 264; in Geraldton, 161; and in Mandurah, 662. Mr Wilde collected information on the number of applications for the disposal of security bonds over a five-week period until the end of March 2001. I assume it was all of March and the latter half of February. That is a significant total. The total—I have not read out all the figures—was some 10 284. His argument is that a significant number of applications for bond release are dealt with in our courts. For those who have seen this happen, quite often there is an application for a hearing, both parties are requested to attend and, quite simply, the tenant quite regularly does not turn up to argue the case. Usually, the magistrate simply releases the bond and ultimately it is up to the landlord, through the agent, to pursue any outstanding moneys after the bond has been taken from what might be outstanding.

Mr Wilde believes that this system is messy. To be honest, he suggests that the amount of rent paid in advance should be increased. He suggests something quite significant; he suggests six weeks. I think, realistically, six weeks' worth of rent is a significant amount of money for a person to put up-front. However, he believes that if the bond were increased—he suggests six weeks—there would be a reduction in the number of disputes that would ultimately go to court for the disposal of the security bond. That is one of the points that he makes in relation to the release of bonds. Of course, some of these tenancy disputes go to a much more formal hearing and can take some time to be resolved. Mr Wilde questions why there have been few successful prosecutions. He says in his letter that if magistrates adhered to the current act, there should be minimal court cases. He claims

that very few actually go to any formal outcome. Again, those are some of the issues of concern that he has put forward.

Another issue is consultation, and I really am interested in the minister's response to this issue. In Mr Wilde's letter to the minister, he claims that the government has consulted and tends to consult widely with the Real Estate Institute of WA, but that during the consultation period there had not been significant consultation with groups such as the one he is a member of—that is, the Property Owners' Association of WA. I do not know how many times the minister met with the president of the Property Owners' Association of WA to consult about this bill, but if the minister enlightens us in that regard, it may perhaps answer the query about consultation. I need a slight extension, Mr Speaker.

The SPEAKER: Just 10 minutes, member.

[Member's time extended.]

Mr D.A. TEMPLEMAN: That is more than enough.

The other issue of consultation in Mr Wilde's view is that although private landlords in his words have not been "appropriately or adequately consulted", other stakeholders including advocates for tenants, have been adequately consulted. He put that argument forward.

The amendments in the bill propose some substantial provisions. The member for Rockingham earlier read out an email from Mr Wilde highlighting what he saw as some inconsistencies with fines for other offences. Again, I am interested in the minister's comments, perhaps during consideration in detail, concerning some of these fines and their severity, which might be questioned in that process.

In the final paragraph of Mr Wilde's letter to the Minister for Commerce, he writes about the imposition on property owners when they seek to fix or repair the damage to properties after a tenant has vacated. He highlights —

> The Commonwealth Income Taxation Department only allows write off's at particular items in a property of a particular percentage. To conform to the ATO write off's one needs to minimise wear and tear to … within the ATO parameters. If items (carpets, floor vinyl, etc) is destroyed before the write off period the owner has to renew it and start again with the write off and lose money.
>
> Some items like painting are an instant write off but that only represents a 33% claim (depending on taxable income) on the total cost. Rental properties are a business like any other and costs have to be minimised and income maximised as much as the market will allow.

Mr Vaughan Wilde puts a particular point of view across about the interests of landowners, or landlords, in particular. Although I do not necessarily agree with the six-week proposal, I am very interested in what seems like a significantly high annual number of applications for disposal of security bonds, and I would like some clarification, perhaps from the department or through the minister's office or through the minister, about whether those figures are accurate. I do not know. They are figures that Mr Wilde has put. However, it seems quite remarkable that over a five-week period something like 10 000 applications for the disposal of security bonds are made. If that is an average for five weeks, it is a significant number over a year.

Mr T.R. Buswell: Can I just check whether his figure was 10 000 in five weeks —

Mr D.A. TEMPLEMAN: That is what he claims, yes.

Mr T.R. Buswell: That is 100 000 in a year.

Mr D.A. TEMPLEMAN: He claims so, and, again, I am not sure; he is estimating. These may not have been consecutive weeks.

Mr T.R. Buswell: It might be the five highest.

Mr D.A. TEMPLEMAN: It could have been. The minister should have this letter, I am sure he has it.

Mr T.R. Buswell: When we have the advisers, I will show them the letter.

Mr D.A. TEMPLEMAN: Mr Wilde is estimating something just over 40 000 annually. I do not know whether that is a remarkable figure or not; it just seems high to me. When we come to the consideration in detail stage, the minister might be able to give us some figures to indicate that. The final thing I want to say on this is that we must also recognise the responsibility. Yes, we have to provide appropriate programs for people and we have to try to make sure that we work to ensure people have a roof over their heads. But there is an obligation on people to show decency with any property they may be renting, whether it be public property owned ultimately by the taxpayer and overseen and administrated by the government, or a private concern. It is only reasonable that

people respect that the property they are renting provides them with accommodation. There is clearly an obligation on them to respect that. At the same time, we need to respect the rights of people to live their lives where they are not unduly harassed, if we like, when they are carrying out their normal day-to-day lives. I hope we achieve balance in this bill. I hope that through these amendments we get an appropriate balance and fairness to tenants and to landlords, but a clearer understanding of the obligations of those people who are involved in rental transactions be they in a public or community housing setting or in a private rental setting. If we can get that right, yes, it might actually assist us to deal better with those examples of unacceptable behaviour in our neighbourhoods.

I agree with the member for Rockingham that the treatment of tenants in public or community housing should be no different from the treatment of people who rent property privately. I think that is the key distinction between the opposition and the government in our approach to these amendments.

MR J.C. KOBELKE (Balcatta) [9.47 pm]: I rise in support of the Residential Tenancies Amendment Bill but point out some concerns we have about the way it shifts the balance with respect to the landlord and tenants in public housing. The basis for the Residential Tenancies Act is the importance of providing housing to people in Western Australia. Taking the broader brush of the need for housing, I would like to say a few things of a more general nature about what is contained in the bill. We are all very much aware of the problems of affordability of housing, and it is something that is very difficult for governments at the state level to deal with. Interest rates and the cost of housing can be influenced in some ways; state governments can do some good things, but there are major forces within the national and state economy that impact on the affordability of housing. I will not speak any further on that other than to say that many people are stressed financially in their ability to afford their accommodation.

We then move to the area of public or social housing, or affordable housing, areas in which the government has a more direct say in trying to provide housing for people who must meet specific conditions relating to eligibility. This bill goes to some of those specific matters. In a third category are itinerant or homeless people who are trying to get into private rental or public housing or into specialised housing that might be available for people with mental illness or disabilities. But I will not canvass those areas because, although this bill applies largely to public housing, it does apply to all tenancies.

Many people in my electorate, particularly those from Italy, Macedonia and the former Yugoslavia, came to Western Australia and took up jobs that required fairly hard labour. They worked extremely hard and put money aside to purchase an extra property as a form of security in their old age and to provide for their children. Many of those people have problems as landlords when they get a poor tenant, which is covered in part by this bill, and are on pensions or part pensions. As the price of the property has gone up, it has impacted on them through a reduction in the commonwealth's social security pension. I regularly have people in my office complaining that their commonwealth pension has been reduced after a revaluation of their investment property. This bill does not cover that but I am very conscious that there are many parties to the transactions in the provision of housing. It is very important to try to get the balance right, particularly in the Residential Tenancies Act. Although the Residential Tenancies Amendment Bill 2011 provides a number of positive outcomes, I am concerned that we are potentially losing some of the balance contained within the provisions of the act.

I will continue with the theme of the importance of housing. Housing is absolutely essential if we want to support our families and provide a stable home life for our children. It is hard to give a child an opportunity when living in the back of a car. Recently this has become much more commonplace in my electorate. People who have come to Western Australia for a range of reasons cannot find affordable housing and are living with their children for weeks or even months in a car in a public car park. It may not be a huge number of people, but it certainly is significant for those families who cannot get into any type of proper housing. Provisions in this bill make it easier to evict people from housing, and that may be done for good reasons, but it does not solve the problem of providing housing for people so that they can hopefully look after their families and build decent lives. If people do not have proper housing, it causes a range of health issues that impact on the cost of our hospital system and health services. People cannot maintain a healthy lifestyle if they are living rough or do not have security of housing, and people with mental health issues have those issues exacerbated when they do not have somewhere to sleep in peace and quiet.

In many areas our young children, particularly our Indigenous children, have a very poor school attendance rate. There are high rates of truancy and students are going to school inadequately equipped because they have not been fed or have not slept. Often that is due to very poor housing conditions. It is highly likely that children who live in a house with 20 or 30 people will not get adequate sleep and that their education will be affected because of that. If we take the simplistic view that we can just throw people out on the street, what will be the future of the young children whose parents are unable to provide adequate housing for them? I again stress the importance

of employment. If people are not adequately housed, they cannot hold down a job. They cannot turn up to work on time or be clean and appropriately dressed. They are unable to present themselves in a way that their employer would find satisfactory. Denying people proper housing takes away the opportunity for some people to work. A range of abuse and violence issues arise when there are too many people in a house because someone who has been evicted is staying with other people. The evicted person might be tolerated for a few days before a dispute arises.

People's personal safety could be affected because they do not have appropriate and stable housing. We are all well aware of the huge problems of getting people with mental health issues out of institutional care and finding housing for them. Many of those people, who may or may not be in private rental or public housing, might not always behave appropriately. When we are too quick to put those people onto the streets, the mental health issues are just compounded and we are not actually trying to find a solution. It is incredibly important that we try to provide the best possible security of tenure for people in a property.

For many people the private rental market is appropriate and they are very happy with it. But for people on a low income, the cost pressure of paying half or more of their total income in rent leaves them unable to afford the basics of life and having to live on a very limited diet, which again affects their health. They cannot provide for medicines and other things they need sometimes, because the cost of the private rental is just too high. Then of course even for people who can afford a private rental, the fact that their tenancy may be terminated every six or 12 months impacts on their children when they have to keep shifting schools. We could address that impact if we could provide the best possible tenure within housing. Of course, for a long time public housing has provided that, but a concern about the Residential Tenancies Amendment Bill 2011 is that a tighter application of the eligibility criteria will shorten that tenure in public housing.

Another very important factor that I think has been integral to Australian home ownership from before I was born is that when people have a commitment to owning a house and take pride in that house, it motivates them in terms of their ability to save, to meet their financial commitments, to maintain a job, to take pride in their home and to live in a suburb where people keep their houses in good condition, and they share that pride with their neighbours, they form a community, and they look after their property. Potentially, that could all be undermined if we take away people's stability of tenure. I am concerned that some of the elements in this bill, if applied in the harshest possible way, would actually lead to people being evicted, when really they should be managed through the tenancy even if there are some problems with them.

I want to talk, first of all, about eligibility. Many members would have received correspondence from the Community Housing Coalition of Western Australia outlining some concerns about the bill. One view that it raises—I think there is some basis to it—is that the legislation proposes to give excessive powers to the Minister for Housing over not only the public housing system, but also the community housing system for setting eligibility requirements. This goes to proposed section 71C of the act, which is headed "Notice of termination by lessor on ground that tenant not eligible for social housing premises". If the minister is worried only about numbers—that is, reducing the large waiting list by reducing eligibility—that may look good to him, but if the rule is applied too strictly, it will not be good for the tens of thousands of people who are denied public housing.

It will also cause huge knock-on effects in our community. Let us look at the current eligibility criteria—at least they were current when I got them off the Department of Housing website just a few weeks ago. I ask the minister to tell me, by interjection, whether since this government came to power it has shifted the dollar amounts of income that are the basis for eligibility.

Mr T.R. Buswell: No, and I do not think you did either, actually.

Mr J.C. KOBELKE: We did, yes.

Mr T.R. Buswell: When?

Mr J.C. KOBELKE: We lifted them.

Mr T.R. Buswell: When?

Mr J.C. KOBELKE: In 2006–2007; okay?

We have a real problem as to who is eligible for public housing. It is getting to the stage that next to no-one is. That is one way of fixing the waiting list.

Mr T.R. Buswell: If no-one is eligible, why are there 22 000 people on the waiting list?

Mr J.C. KOBELKE: Because people can apply, but when they come to take up the tenancy, they have to submit information—that is quite correct—to show their income, and many people do not qualify at that point and are then knocked off the list because they are not eligible.

Mr T.R. Buswell: If that was the case, there'd be vacant houses left, right and centre, and there are not.

Mr J.C. KOBELKE: I am saying that the government is on the cusp of creating a situation in which most people who should be able to get public housing will not be able to do so. The federal government has been very generous in increasing pensions. The state government has not increased the maximum income public housing qualification for pensioners. Therefore, people on the full pension are not eligible for public housing. That is the current situation.

I will just go through the figures. Let us start with people on the minimum wage. The national basic minimum wage set by a Fair Work Australia in July this year is $589.30 per week—that is, $30 600 a year. A single-income person can earn a maximum of $430 and be eligible for public housing. The minimum wage is $589. Therefore, a single person on the minimum wage does not qualify for public housing. With a single income but two tenants—for example, a married couple with only one person working 38 hours a week to earn the minimum wage—under national and state law, that person receives $589.30, yet the income limit set by the Department of Housing is $580. Those tenants do not qualify for public housing. If they had a child, they would qualify, but a husband and wife on a single income, working standard hours with no overtime to earn some luxuries or to afford a car, are not eligible for public housing under the current criteria set by the government. Proposed section 71 will make it easier to turf out those people. The problem is compounded. I thought that a government that talks about supporting enterprise and supporting people to be self-sufficient would not want to tell someone on the dole that if he gets a job, he will have to get out of public housing. People who have come to my office in the last couple of weeks have said to me that they will throw in the job and go on the dole, because then they can keep the house. They were going to be evicted. One is an African refugee who works in a labouring job in Perth, and his income means that he does not qualify for public housing. His choice is to throw in the job, get the dole and keep his house or move out into the private market where he will have to pay a lot more and be financially worse off. People will be put in that position if this government does not have a more realistic limit on what people can earn to qualify for public housing. Proposed section 71D, in clause 92, will make it easier to throw those people out of public housing, evict them, because they are earning a minimum wage.

But it is worse than that! An aged pensioner on the full commonwealth pension earning only a little extra money does not qualify for public housing in Western Australia. Let us look at a single pensioner. A single pensioner receives $345.45 a week, a supplement of $29.20, and therefore receives a total pension of $364.65. He can still receive the full pension after earning about $73 a week; that is, working about five hours a week. The traffic wardens outside our schools work 10 hours a week. Even if a person were to get only five hours a week, he would earn $437, or slightly more, and would not be eligible for public housing because $430 is the cut-off. The current rules are that if one earns over $430 a week on a single income, one is not eligible for public housing. An aged pensioner on the full pension, working only five hours a week, doing a bit of cleaning, is no longer eligible for public housing. It is worked out the same way for a married couple. Two people are aged 75 and 80, and one of them goes to the markets and declares that each week they make another $40 or $50 doing a bit of selling. They can do that and not lose their pension. They are full pensioners; they are enterprising.

[Member's time extended.]

Mr J.C. KOBELKE: But if they make a few extra dollars, they are not eligible for public housing.

So the problem we have is that the provisions in proposed section 71C will make it easier to tip the pensioner couple out of their property. It will mean that people will have to give up their lollypop man job, or give up selling a few second-hand things at the Balga markets. It may also mean that people will end up not following the rules. The office will tell them, "Don't declare that income, don't tell us about it, and you can stay there." That is because if people are honest and declare that they are making a bit above the minimum pension—they are still getting the full pension, because the commonwealth allows that—they will lose their eligibility for public housing in Western Australia.

We see that this government is squeezing people out of public housing just to make the numbers look better. That will not make for a better society. That is not looking after people. I was at a talk just this week at which it was pointed out that in terms of the maldistribution of income in Australia, we are about the fourth worst in the developed world. When we look at Australia's top 20 per cent of income and bottom 20 per cent of income, there are only three other nations in the world— Singapore, the United States, and I think it might be New Zealand—in which there is a greater disparity. So we have a situation in which, if we continue down this road

with public housing, we will be further exacerbating that maldistribution of income and the welfare system in our community.

I am a great believer that if we want a healthy community and if we want a cohesive community, we should be working to reduce little by little that maldistribution of income and improve the ability of people to lead a decent life. Of course with the huge increases that we have seen in electricity and water prices, many pensioners are really struggling. I just do not know how people who are not in public housing and are attempting to live on the pension, with a few extra dollars if they can earn them, can survive, with the cost of electricity, the cost of water and the high cost of private rental. I get those people in my office all the time. They are doing a bit of work in a car park, minding the gate, they are doing a bit of cleaning for someone on the side, or they are taking in ironing to make a few dollars. They are battling to survive in the current climate. The government cannot control all of that. But it can control, or it has failed to control, the ridiculous increases in electricity and water and other government charges. What we see in proposed section 71C in terms of the eligibility criteria is not helping. We need to look seriously at shifting the thresholds to make sure that more people qualify for public housing. Then proposed section 71C would not be so draconian.

This proposed section will give the government the opportunity to get these people out of government housing quickly, just because they are earning a bit more money. We need to think through the social consequences of that. For people who are on very low incomes and who cannot earn any more money, it will drive them into poverty. For people who are battling to get ahead and look after their families, it will pressure them to go back on the dole, because they would rather not earn an income and stay in public housing and pay the low rent than have to pay for expensive private housing. The government needs to be very careful that in trying to fix the numbers so that it can look good, it will not be booting people out of public housing and just compounding our social problems. Those social problems are considerable.

There was a report in the news recently—I do not have the report in front of me, so I do not know the exact figures—that said that the number of children in care, or wards of the state, has doubled in the last five to 10 years. That was across Australia, not just Western Australia. That is because of a range of social problems. The biggest single problem is probably that the parents are on drugs and someone has to look after the children. If people have substance abuse problems or mental health problems, it is a very difficult decision for our child protection agencies to determine whether it is in the best interests of the children to support them to stay with their parents, or to remove them from their parents. If we add to that the burden that the parents cannot maintain stable housing, we will make it even worse. That is not to say that these people can behave in ways that impact negatively on their neighbours. There need to be very clear guidelines and very strict follow-up with people who create problems for their neighbours. I would have four or five issues on the go nearly all the time with people who are troublesome neighbours. Most of them are from the Department of Housing, but not always. Some of the worst ones I have had were people in private rentals impacting on their neighbours. As the member for Rockingham said, we do not believe that there should be one set of rules for dealing with difficult tenants for a private landlord and another set of rules for a public landlord. Difficult tenants are a problem. We can certainly improve the law in that area and we need to improve the law. However, the law needs to take account of the difficult balance we are trying to achieve between looking after the public investment in the 37 000 to 40 000 homes that are currently administered by the government and making sure that we do not waste taxpayers' money. We need to ensure that when people live next to a public housing tenant, they can enjoy the peace and quiet of their home and not have that destroyed by neighbours who do not behave appropriately.

We also need to recognise that simply throwing tenants out, particularly if children are involved, will not solve the problem. They will just go and live with some friends or neighbours and the problem will shift from one street to the next. It does not solve the problem. It just moves it around. In fact, it can exacerbate it and make it even worse. We have had programs such as the supported accommodation assistance program, which started back in the 1990s and still continues, to provide special assistance to these people who have difficulty meeting the required standards. That is not easy. There is no magic bullet. Evicting people in many cases is not a magic bullet either. Sometimes it is simply the only solution, but this legislation may make eviction the first method to attempt to deal with the problem, which will simply compound matters.

I noticed in the latest edition of the Equal Opportunity Commission newssheet, *Discrimination Matters*, Yvonne Henderson has also taken up this issue. I will quote briefly from the front page of that report —

> "The definitions of objectionable behaviour are vague and can effectively allow a tenant to be evicted for an incident that interferes with the peace, comfort or privacy of a neighbour," Ms Henderson said.
>
> ...
>
> "People in social housing are there because they are in desperate need of shelter and this can include people from ethnic minorities, people with mental health issues and Aboriginal people."

I take those words from the Equal Opportunity Commissioner. We have also received that sort of advice from other agencies representing people; if we are not a bit more sensitive about maintaining this balance, we will compound the problem and we will not solve it. It may be easy for the minister to talk tough and say that he is kicking people out, but at the end of the day we are about trying to provide support for people in our community. Providing that support is not always easy. There are difficult tenants and people with quite complex problems. We are either part of the solution to help those people try to get their lives together or we are simply making their situation worse.

I have some concerns about this bill's attempt to provide two different systems by which to manage problem tenants; the private rental market will have one set of rules and the public rental market will have another set of rules. I think that is going down the wrong road altogether. We really need to respect people and to acknowledge that they all have rights. Simply because one form of housing is provided at public expense, whether that is direct public housing or community housing, we should not set up different sets of rules to deal with the problem tenants. As difficult as they are, that is an issue that can be much better managed. Of course, this government does not want to put the resources into providing that assistance. To help people cope and get them to behave in a way that is more acceptable requires resources, but this government does not want to put resources there. It is easy to talk tough and compound the problem and not deal with it. I hope the government is willing to look at the problems in more detail and find an approach that is more likely to give solutions, rather than an approach that simply tries to hide the problems by cutting down access to public housing and simply evicting people out of homes because they have created a problem. There are much better solutions that in the longer term will lead to less cost to the government because people will not need to be rehoused and moved around. Perhaps we will end up with fewer people in the courts and less crime if we can find a way of helping people to stabilise their families and live in a way that is more acceptable to the nation.

MR B.S. WYATT (Victoria Park) [10.15 pm]: I rise to make a contribution to the Residential Tenancies Amendment Bill 2011. The member for Rockingham has already outlined the opposition's position on this legislation. The opposition supports the bill, but will be moving a number of amendments dealing primarily with two points. The first point is to make the legislation tougher on illegal activity, and the member for Rockingham gave the example of the proliferation of clan labs throughout metropolitan Perth; and the second is in respect of moving an amendment to ensure that public and private tenants are treated the same so that public tenants are not discriminated against. I want to start off by acknowledging the various pieces of correspondence I have received—as no doubt all members have—from a variety of voluntary organisations, mainly the Tenants Advice Service, but also the Women's Council for Domestic and Family Violence, which organised a number of letters from different organisations making generally the same points. It is important to note that those organisations, like the opposition, support the passage of the legislation and they seek amendments to the bill. In particular, the Tenants Advice Service was very determined to make the point very early on in its paper, "Report on the Residential Tenancies Amendment Bill 2011", that there had been no meaningful consultation by the government on the decision to regulate social housing tenancies.

We are here now—the member for Balcatta has already made many points that I will touch on—to deal with what the Minister for Housing no doubt receives every day from members of Parliament; that is, complaints about the behaviour of tenants in public housing. Ultimately, there will be some tenants who simply will need to be moved on and who for whatever reason will not occupy their tenancy in a way that is considerate to the surrounding houses. There is no doubt about that. But the member for Balcatta quite eloquently outlined that we must be very careful about how we go about implementing such strategies, and I want to make some comments about the government's three-strikes strategy. Ultimately, what is happening—maybe other members are finding this out—is that people from all over Western Australia, mainly Aboriginal people, who are impacted on by that policy are contacting my office seeking assistance because they are finding themselves homeless, without a tenancy, and in some situations this involves children. We have just had National Homeless Persons' Week. I do not need to lecture members of Parliament about the importance of a home and a stable home environment. There is no doubt that the three-strikes policy is having an adverse impact on Aboriginal tenants. I note the article by Colleen Egan in *The West Australian* of 2 August under the headline "Aboriginals 'hit hard' by three-strikes eviction rule". The minister made the point that it is not applied in a discriminatory way but the real impact will, of course, have a greater impact on Aboriginal people, a greater percentage of whom occupy public housing.

Mr T.R. Buswell: I am happy to provide all the data that we provided in that report.

Mr B.S. WYATT: I would appreciate that. I would like to see that data.

Mr T.R. Buswell: I understand the point you are making, but based on the data—there are only two months provided from when the policy came in—it is a little bit of a leap.

Mr B.S. WYATT: The comment in the article was —

> Mr Buswell would not disclose the proportion of indigenous tenant evictions but said the policy was applied consistently.

Did the minister provide that information?

Mr T.R. Buswell: My understanding—I would have to check—is we provided a whole range of breakdowns going back a number of months.

Mr B.S. WYATT: I would like to see that, if the minister could provide that. I say again that I am giving an anecdotal situation for contacts to my office.

Mr T.R. Buswell: I am not arguing against what the member is saying. I will give him the stats. I will dig them up tomorrow and bring them down.

Mr B.S. WYATT: I would like to see the stats. It may be because people know I am an Aboriginal member of Parliament, but I am finding I am getting a lot more contacts to my office from Aboriginal people all over the state. Today is a good example. I had a bunch of people in from Jigalong, where my dad is. They were looking for housing. They were not looking for housing in my electorate, but they came to my office and we are assisting them with that.

Mr T.R. Buswell: That's probably because your dad looks after them so well.

Mr B.S. WYATT: Yes, he sends them to Perth to my office.

Mr T.R. Buswell: As he did with me when I went and visited.

Mr B.S. WYATT: So I hear.

Mr J.J.M. Bowler: Is Jigalong in the member for Pilbara's electorate?

Mr T.G. Stephens: It used to be in yours. Didn't you fix it when it was in your electorate? I wouldn't have had to worry about it.

Mr J.J.M. Bowler: It was going smoothly when it was in my electorate. It has fallen to bits now.

Mr B.S. WYATT: They are all coming down to Victoria Park.

I will be interested to see the statistics that the minister has undertaken to provide. An interesting case is taking place in the courts at the moment in respect of the three-strikes policy. I was fortunate enough to come across this situation, because it involves a constituent of mine. She is a constituent whom I had not actually heard from until the third strike was issued against this particular constituent and she was about to appear in court to argue her case. The reason I had not heard from that constituent was that she had been a tenant in this house since 1997 and had an unblemished record. Between November 2010 and February 2011, a very short period, three strikes were issued against her. She is 67 years old; she is an older lady. I believe she has a grandson living with her at the moment. As I understand it, these three strikes were issued under section 64 of the Residential Tenancies Act, which states —

> **64. Notice of termination by owner without any ground**
>
> (1) An owner may give notice of termination of an agreement to the tenant without specifying any ground for the notice.
>
> (2) Where an owner gives notice of termination under this section, the period of notice must be not less than 60 days.
>
> (3) This section does not apply in relation to an agreement that creates a tenancy for a fixed term during the currency of that term.

This constituent of mine was facing eviction. The case was going to the court. Thankfully, a private firm in the city, which was doing pro bono work, received the case from Sussex Street legal centre, which members might know. It received the case on the day it was due in court. The lawyer made a particularly good case, relying on section 84 of the RTA. I will read section 84 into *Hansard* —

> A competent court may, upon application by any person, if the court considers it necessary or desirable in the circumstances, order that a provision of this Act shall not apply to or in relation to any residential tenancy agreement or proposed residential tenancy agreement or any premises or shall apply in a modified manner specified in the order and the order shall have effect accordingly.

Mr B.S. WYATT: Basically, it is giving the court a plenary power to amend the application of the RTA, in particular section 64, the section upon which —

Mr T.R. Buswell: Member, my understanding is that the three strikes are not necessarily issued under section 64. Section 64 is the mechanism provided within the act.

Mr B.S. WYATT: Correct. Under section 64 this constituent of mine has received three strikes. The trigger had been pulled by the department to evict her from a tenancy. It was argued before a magistrate. The lawyer representing my constituent relied on section 84 to say, from the agreement that the department has with my constituent—because there is effectively a lease agreement; it is a pro forma agreement and no doubt there are hundreds, if not thousands, of these things around—that clause 23.4 of the lease is in exactly the same terms as section 64 that allows the department to evict. However, the difference is that the agreement is conditioned by the requirement that the exercise of the power to remove a tenant not be exercised capriciously or unreasonably. Of course, the department signed that lease and my constituent signed that lease.

We went back and looked at the facts that led to my constituent being evicted for three strikes, and there is no question that the behaviour warranted strikes being issued. However, before such a rule is applied so rigidly, we need to look at what has been going on underneath this. For some reason—this is something that I am still not sure of—my constituent's house started being treated a bit like a drop-in house or a drop-in centre. People—not family—were coming by and using her property to drink, make noise and fight. She would come home and people she did not know would be sitting on her front porch. Interestingly, the third strike that was issued against her was after she called the police to remove people from her property. She called the police and said, "Look, there are people on my property." This took a while because, as members would appreciate, she is in poor health, at 67 years of age. She was scared. Her grandson, who I believe lives with her, was involved and scared. Eventually she worked up the courage to call the police, and as a result of the police attending her property, she was issued with a third strike.

When that matter went before the magistrate, the magistrate used the mechanism under section 84 of the Residential Tenancies Act to effectively read into section 64 an element of reasonableness. That almost added to section 64 of the act a subsection (4), which reads —

> An owner's ability to give a notice under subsection (1) must not in all the circumstances be exercised in an unreasonable manner.

In that situation, it seems to me that the court, quite rightly, allowed the argument to be adjourned. The matter will come back before the court soon, I believe, to hear argument about whether there was unreasonableness in section 64 being triggered and my constituent therefore being evicted from the property.

Mr T.R. Buswell: My understanding of the bill before us is that nothing in it amends section 84.

Mr B.S. WYATT: No. I am using the opportunity to talk about the Residential Tenancies Act and to talk about an issue of concern.

Mr T.R. Buswell: I think it is a good example of the role the court has to play in that process perhaps.

Mr B.S. WYATT: Yes, and that is what I am getting at; that is right.

We are now in a situation in which the matter will go back to the court very shortly to hear argument on whether it is unreasonable for that lady, that constituent of mine, to be evicted. It is my view that it is unreasonable. I know where she lives; I know the street very well. I also know a lot of the people who live in that street. There is no doubt that the behaviour going on in her house is unreasonable, and there is no doubt that people want it to stop. However, the strict application of the three-strikes policy, I think, has been unreasonable, and ultimately the court will make a decision at some point in the near future about whether it was unreasonable in her circumstances.

We must be very careful before we make assumptions in this place about tenants in public housing. I am just as guilty of it as, no doubt, others are. The frustration with bad tenants who cause problems again and again eventually leads to either letters to this minister or the police attending the property and arrests being made, thus leading to the frustration of residents who live near those tenancies. We all know that. However, as the member for Balcatta outlined earlier, we live in a wealthy society and we must be very careful before we exacerbate the situation by pushing people into homelessness. We must avoid that. I know that the minister will provide me with those statistics that he referred to before, but I am absolutely sure that Aboriginal people will be impacted by those sorts of changes more than any other people.

Mr T.R. Buswell: I am not saying that that is not the case, but there were only two months of stats really, so it's a little hard to —

Mr B.S. WYATT: I do not know what the stats are for all tenants in public housing who are Aboriginal or who are not. I will look at that.

Mr T.R. Buswell: I'll give you the breakdown.

Mr B.S. WYATT: Ultimately, people end up in our offices, and we all know the amount of time we spend as quasi real estate agents.

The member for Rockingham has outlined the amendments that the opposition intends to move, particularly to toughen illegal behaviour provisions. Clandestine laboratories have received a fair bit of attention of late, mainly because a number have been based in my electorate. Some of the more high-profile explosions have been in Victoria Park. Certainly, the explosion involving the son of the Commissioner of Police took place in my electorate. This behaviour, it is trite to say, is unacceptable. The amendments that will be moved by the member for Rockingham warrant support. But neither should we be placing a stigma on people who live in public tenancies by saying that they will be treated differently from tenants who live in private tenancies. I do not think that is acceptable. I think that we as a Parliament can come up with a mechanism that solves the problems caused by the overall small number—if we look at the amount of public housing in Western Australia—of tenants who cause problems. We can do that without the sledgehammer of such dramatic action as discriminating against tenants in public housing.

This is a terribly complicated issue, because, ultimately, we are dealing with some of the state's most vulnerable people. We are dealing with many people who skate along the edge of homelessness throughout a lot of their lives. They are in and out of houses and often do not have fixed addresses. Sometimes they get lucky and fall into publicly provided accommodation and then move on or fall out of that. We are dealing with pensioners who, as the member for Balcatta outlined quite thoroughly, are now in a situation in which they have to withdraw spending on what I view to be essential services to maintain their rent. Their bills have gone up at such a rate that they have to stop spending on heating and food so that they can maintain their public tenancy. The member for Balcatta also outlined the strange situation whereby once a person's wage gets above a certain level, they are no longer entitled to public housing. The application of that in such a strict manner is pushing people—actually enticing people—out of the workforce and back on to welfare benefits so that they can maintain their public housing. Ultimately, they know that if they are in a job for a short term of three, four or five months, there is no way that they will get another public house. There is also no way that particularly Aboriginal people will find a house provided by the private sector.

As I have said, these issues are complicated and they deserve considered discussion and detailed and sophisticated consideration by the minister and his department. The member for Rockingham will move some worthy amendments. The opposition will support them. I hope that the government partakes in this debate in a way that is considerate of the fact that we are dealing with people who often cling onto those houses by their fingernails. Those people do not deserve to be disparaged or maligned in any way. I do not believe that treating tenants in public housing differently from tenants in private housing is the way we should go forward in a fair and just community such as ours.

MR P.C. TINLEY (Willagee) [10.33 pm]: I want to add my comments to the debate on the Residential Tenancies Amendment Bill 2011. I have been vocal in this place about public housing since I have arrived. I, like most new members of Parliament with a representation of public housing tenants in their electorates, was taken aback by the levels of disruptive behaviour and other issues around public housing. As an old friend of mine used to say, what interests my constituents fascinates me. I have had a bit to do with this issue and have been dropped right in the deep end. It sounds odd, given that I was raised in a State Housing Commission house that my father was able to buy through a shared equity scheme at the time, which was a fantastic outcome. Therein lie some of the issues in relation to the supported housing area, and where we would see, philosophically, some alignment, I would imagine, from both sides, and certainly from my personal perspective; namely, that public housing exists to assist people to transition through it into their own dwelling. Shared equity schemes and so on are of particular interest to me, and I will continue to have a great interest in them. Hopefully, I will have an effect on them in my time in this place.

I am relatively new to this place; I came in November 2009. I can say that I am the member with the largest population of constituents living in public housing; that is, 33.2 per cent of the population of the seat of Willagee live in public housing, which is the largest number of people in the state. Obviously, I get firsthand anecdotes of all the problems that occur, which this bill, in some small way, attempts to address. Since November 2009, my office has dealt with 54 substantive matters in relation to antisocial behaviour in public housing.

Mr J.J.M. Bowler: Is that since 2009 or last week? I get that many a day in my office.

Mr P.C. TINLEY: The antisocial behaviour was violent in nature and required action by the Department of Housing, up to and including eviction; it required me to actually get involved. Although there were 54 matters, there were easily any number, 20 or 30, of pieces of correspondence that related to each of them, be they emails

and/or formal letters to the Minister for Housing and the Minister for Police. It is really important that the hard end of what is being proposed in this bill is understood.

I have experienced this antisocial behaviour firsthand. As a resident of the great suburb of Hilton, we were subjected to a house invasion and got knocked over five times by tenants from a Homeswest house. But we really need to understand who these people are. As the member for Balcatta outlined, it is really important to understand, through their economic status, where they actually fit in. We are talking about people who are on $430 a week as a single income, and that, relative to the threshold, is a particularly tight number and a particularly tight problem. I also note that the Salvation Army in its report "Perceptions of Poverty" identified that this group was falling into its sphere, and into that of other such non-government organisations. The Salvation Army estimated that at least 80 000 Australians across the country needed its assistance last year. The Salvation Army says that a new emerging group of people is getting bigger—they are called the working poor. These are the very people who occupy these houses—the working poor. The Salvation Army report went on to say that around half of the country's low-income households reported experiencing cash flow problems, and more than a quarter of them needed to increase credit card debt, exhaust savings or borrow money from friends and family.

The new report follows a University of Sydney report that shows that the number of full-time jobs is dramatically dropping. Full-time jobs with paid leave now make up slightly more than 55 per cent of jobs; in other words, more people are transitioning into part-time work or into what is called the underemployed class. The Australian Council of Social Service identified the current minimum wage at 14 bucks an hour—in fact, it has increased just recently—or $543 a week, which equates to $28 000 per annum. Members in this place would pay that in tax a year, and that is what some people have to work on. Who are these working poor? Fifty-two per cent were women, compared with women comprising 45 per cent of the overall workforce—that accounts for a lot of single widow pensioners—and 630 000 people were young employees aged under 21 years. Eight per cent of those who were paid below or just above the minimum wage were sole parents. The point I am making illustrates the growing draw on NGOs and the growing need for a systemic, overarching solution to the problem, while the solution proposed by the Minister for Housing is only piecemeal. As mentioned by the member for Rockingham and others on this side of the house, this bill is inequitable because it is aimed most fiercely only at those in the public housing sector. The reality is that the private sector does not enjoy the same benefits that the landlord—the government—has over social housing. Having owned a rental property, I have personal experience of trying under, I think, section 60 of the Residential Tenancies Act to terminate our tenants' lease agreement because of reported drug use, antisocial behaviour et cetera. It took me nearly six and a half months to get the tenants out because they decided they were going to fight the termination notice, and we ended up in the Equal Opportunity Commission and experienced a range of other things before we could get satisfaction and provide the quiet enjoyment the neighbours in the street so rightly deserved. The essence of this experience is that if some of the provisions in this bill that are available to the government as a landlord had been available to me, I would not have had to waste my time or money, nor would people who were our former neighbours and friends have been caused all sorts of heartache.

I think enough has been said in this place to, I hope, encourage the minister to respond in a meaningful way and explain why this bill provides for two standards. Why is there a standard for the landlord of public sector accommodation in this state and a standard for private landlords? The bill provides a range of amendments to the way the RTA is administered, such as provisions to regulate the use of residential tenancy databases, a centralised bond control system et cetera—issues I am sure the industry has raised with the government and various ministers over time. But there seems to be a clip-on that says, "Well, while we're at it, let's make it really tough for the working poor or pensioners, who are the most disadvantaged and most vulnerable—sometimes most vulnerable—in our community." In the housing spectrum there are those who are even more vulnerable than those who occupy public housing and they are those who want to occupy public housing. It is those people who have been on the waiting list, which we talk about in this chamber from time to time and ask questions on. I, like other members, see that in my electorate.

Significantly, one particular lady comes to mind who I will not name, but her story is worth telling. She is a grandmother who has full-time custody of her eight-year-old grandson. She has worked all her life and never been on the dole. She has been looking after her grandson in a full-time capacity for six of those eight years. Her son has been in prison and her daughter-in-law had taken flight. This lady had been living in her car since December, and I could not believe the situation she found herself in. On a Friday afternoon we did a ring-around to find her and her grandson some sort of emergency or temporary accommodation, but not one place could take them. There were places for women who were victims of domestic violence and temporary places for homeless men. All we could do was find a place—with a nod and a wink—for her and the eight-year-old grandson in Mirrabooka for only three nights. That underscores the breadth of this issue. Another lady who I can name, Jane Snare, had been living with her two children in her van in a park in Willagee and other places around Willagee

when the rangers did not move her. Jane Snare is a completely normal person, but she had been caught in a particularly difficult set of circumstances in which getting employment without an address was difficult. Attending to the needs of her children by herself was a full-time job. These are the types of people who are on our waiting list. They qualify for a home because their applications have been accepted. They are the people whom we have to attend to as part of the throughput in the delivery of all public housing opportunities.

An antisocial behaviour intervention model is used in the south metropolitan area. I thank the manager of that program, John Pynes, who works tirelessly with me to try to overcome some of the more difficult issues. I only ever raise the most difficult issues with him directly. He and his team have been fantastic to work with. However, he can only work within the legislation that is provided and the guidelines that are given to him through the Department of Housing and, obviously, the Minister for Housing. Although he has the act to work with, he has very little latitude to apply it. He uses all his intelligence and many years of experience to try to make sure that supported tenancies—those people who are most at risk—get the most attention. Like all departments and organisations, it is simply a question of prioritising the available resources. His antisocial behaviour intervention team, which is the one unit inside the Department of Housing in his area that can be specialised, comprises just one manager and two case managers. There is no way that that antisocial behaviour intervention team is actually tooled up, resourced and provided with all the things that it requires and has the necessary leadership it needs to provide supported tenancies, particularly for at-risk tenants. John Pynes is responsible for 6 000 dwellings in the south metropolitan area, which is too many dwellings for three people to manage. That program is under-resourced. That example strikes at the very heart of this bill. When the legislation is freed up to enable a much faster and more rapid eviction process, we need to make sure that the other side of the equation is balanced so that the people who will be rapidly evicted have the appropriate checks and balances in place to support them. The principal issue is not just how people sign up to or are removed from an agreement and from public housing; there must be a whole-of-government approach to the issue.

Mr T.R. Buswell: Are you talking about the early intervention teams? The one in south metro and the one in —

Mr P.C. TINLEY: They are the antisocial behaviour intervention teams. I have not heard it called an "early intervention team".

Mr T.R. Buswell: There are only two operating in two districts.

Mr P.C. TINLEY: I know that it is only a trial. I am reporting to the minister in my own way by saying that it is a good initiative that is under-resourced in a range of ways. I am not talking about just dollars, although I am talking about salaries, but there are simply not enough case managers. They do not necessarily have the ability to grab other resources to fix the problem. Their first ambition should be to support the tenants to make sure they are kept there.

The Department of Housing is a very good deliverer of mass housing. It is a tried and true method by which we provide a bulk number of houses—nearly 40 000 dwellings. More homes will always be needed; there will never be enough. There will always be a growing waiting list of more people wanting public housing, particularly if the threshold is left where it is. The Department of Housing is very good in my estimation—except for some glitches concerning maintenance, but I will not talk about that tonight—at delivering mass housing. However, it is very poor in my estimation at delivering whole-of-government cross-silo social services. It is very poor at picking up the pieces. That might apply to the Department for Child Protection, that might apply to the Department of Health, and that might apply to the Department of Education—those cross-government, linked-up government services that are needed to resolve the issue.

Mr T.R. Buswell: Member, that is a fair point. One thing you will see with the 250 or so houses for mental health that we are building now is that we have only agreed to build them if they are bundled with a support service. It is a far more holistic approach to delivering a better outcome.

Mr P.C. TINLEY: I give my whole hearted support to that, and I would like about 120 of them down in Willagee if I can, please.

Mr T.R. Buswell: I think you've got two.

Mr P.C. TINLEY: I think that might be right, too. I would like to see the needs analysis that formed the basis of where those houses will be placed, but that is probably another issue.

Certainly mental health services are needed around the housing strategy—Alma Street clinic provides a lot of support to people. There are some management issues around the mix, particularly in nested dwellings, where three units belong to community housing and are used for mental health patients but the front dwelling is a standard Department of Housing house. That is the sort of stuff John Pynes chugs through and works on with us to get a good result.

The key issue that I wanted to make on this is that we cannot just simply look at the stick end of this. I do not disagree with the fact that this very chamber lays down the boundaries that people in this community have to be prepared to sign up to and to behave inside. What I will not accept is that we cannot do more to provide holistic support to people who are at-risk tenants or transgressing tenants. I would like the minister to take that on board, because the real challenge is not getting more houses or dealing with antisocial tenants; the real challenge is finding out the systemic issues that lead to that antisocial behaviour and attending to them. It is wider than just the minister's portfolio.

DR A.D. BUTI (Armadale) [10.51 pm]: I rise to contribute to this debate on the Residential Tenancies Amendment Bill 2011. Like other speakers, I am in general support of the bill, but, obviously, as the minister will have heard, we have some concerns. I wish to briefly reiterate some of the issues raised by other speakers and maybe raise some new ones. I will look at the issues around the public–private divide, the mental health issues, the particular issues around Indigenous families, the working poor, and domestic violence issues. A final issue I want to look at is the resource implications of the possible consequences of many of the proposed government amendments.

Before I do that, I think many members have wanted to contribute to this debate because many constituents come to our electorate offices and complain about antisocial behaviour. There is no doubt about that; I do not think anyone in this place would disagree that that is an issue that the government had to act on. I must also say that many constituents come to my electorate office complaining about Homeswest maintenance issues, but that is for another day.

On housing, we all understand—I do not think we will try to argue that the government does not have an understanding of the importance of housing—that housing is fundamental to someone's standard of living. Even more so than being fundamental to someone's standard of living, it is often the main parameter that determines that person's life experiences. The importance of housing has been reflected by various policies of governments of all persuasions not only in this country, but also the international community understands the importance of housing. I imagine the minister recognises that the right to housing is a fundamental human right that has been recognised by various international human rights instruments including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Section 11 of the International Covenant on Economic, Social and Cultural Rights makes reference to the right to housing, because the right to housing will determine whether a person will have a proper psychological wellbeing. Housing provides security for the family, and it also provides a place where they can then develop their economic credentials. Without housing, one cannot obtain a job, or it is very difficult to obtain a job. Without housing, it is very difficult to educate children. Without housing, it is very difficult to deal with people who are sick and to take care of people who are sick. Therefore, at very many different levels, housing is a fundamental. Besides food and clothing, housing is probably the most fundamental requirement for an adequate standard of living. And I know the minister agrees with me. That is why this is a difficult issue. The government has to balance the need to ensure it provides housing for people—because we know it is a fundamental right—with the need to preserve and protect the rights of other tenants or residents. Therefore, we start from the premise of understanding that housing is very important. However there are also demands on Parliament to decide what parameters it puts around the right to housing. The government as the landlord of public housing has the right and also the ability and power to set the rules. There is no arguing with that view. However, I do not know that it really justifies the issue raised by the member for Rockingham and other speakers about potential developments as a result of the proposed amendments, whereby the public landlord will work under a different system than will the private landlords.

Mr T.R. Buswell: Actually, your proposed amendments take away all those points of difference. They basically gut the antisocial provisions in the bill. There will not be a duopoly system, with the exception of clandestine drug labs. I think we have to be clear about that. Anyway, I will talk about that afterwards.

Dr A.D. BUTI: Yes; of course you will.

However, it seems absurd that the public landlord, the government, will have greater rights to evict troublesome tenants than will a private landlord.

Mr T.R. Buswell: With the exception of the fact that taxpayers are subsidising their accommodation.

Dr A.D. BUTI: Yes; and I understand that that gives the government the justification or the ability to do what it wishes to do, but I question whether that is a justifiable reason for doing it. Whether a person lives near a bad public tenant or a bad private tenant, the consequences are the same for the neighbour. There is no difference, be they private or public. Therefore, this legislation seems unfair. A person living near a public tenant has a greater ability to enjoy piece and quiet as a result of the legislation, but a private tenant may not have that ability. It seems to be a bit unfair.

Regarding mental health, as the member for Balcatta mentioned—albeit I do not have the statistics in front of me—a disproportionate number of people in public housing probably have or may have mental health issues. Sometimes those mental health issues are manifested in antisocial behaviour. That is difficult for a government to deal with. Whether or not someone has a mental health problem, the consequences on the neighbour are still the same: they have to endure the nuisance to their privacy and their enjoyment of a quiet and enjoyable life. However, what happens when we evict those mental health people? Do they go out on the street, do they live in their cars, do they go to the park or do they try to find accommodation with other family members? If we are to go down this line whereby it will become easier to evict people with mental health issues if they are unable to control certain unwarranted and negative behaviour, we, as a society, have to deal with those consequences. If the government will go down this path, it also must have a package of increased resource allocation to deal with the eviction of mental heath tenants. The government cannot just say it will evict a tenant, and the tenant will find another place. In many cases it will not be possible for the tenant to find another place. Therefore, there will have to be an increase in resources to deal with that issue. If not, the trouble will just be relocated, and in many cases, magnified because they will not have a house. They will be left to deal with their own basic needs without sufficient support. Unless one has a house or place of residence, one cannot enjoy many of the social services provided by governments—both state and federal. The government cannot hope that purely through legislation we are going to deal with the trouble. It is a complex issue; there is no doubt about that.

I also raise the issue of Indigenous families. My electorate has a large number of Indigenous families. There are many particular issues with regard to Indigenous families in public housing, often to do with overcrowding, which creates its own problems. Of course, the next-door neighbour does not care whether it is an Indigenous family or not an Indigenous family if trouble is being caused. Just because people are Indigenous does not mean that they should not be subject to this legislation. However, the fact is that in many cases—I know this from a number of representations that I have received at my office—there is an Indigenous grandmother looking after numerous children. That is a major issue, and I really do not have an answer; I am sure the government does not necessarily have an answer for this either. But what often happens is that the grandma cannot control the kids; and, even if she can, other members of the family may come to the house for the weekend and have a party, and the party may get out of control et cetera. Under this legislation, the grandmother, who is the tenant of the house where the trouble is being caused—not by her, and not by the children, but by other family members—may find that an eviction takes place.

Mr T.R. Buswell: Can I just pick that up? That is exactly the scenario that the member for Victoria Park detailed, and it is a matter that, as he pointed out, is still under determination by the court. I think it will be an interesting and evolving body of evidence, or whatever it is, as the court deals with some of these issues.

Dr A.D. BUTI: Yes, and I know from when I was a lawyer at the Aboriginal Legal Service that the antisocial provision of the legislation was often instigated or utilised against Indigenous people. I wonder what governments can do about that. I am not sure. All I am saying is that this legislation itself will not be able to deal with that issue. Therefore, governments will need to look at what else they can do.

The issue of the working poor was mentioned by the member for Willagee. As we know with the mining boom et cetera, the price of private rental is quite enormous. There are a number of people who have jobs, but they cannot afford to get into the private rental market, and they may not have the money for a deposit on a house. I know of at least two families in my electorate—I know there are more—who live in cars, and then the children have to try to go to school the next day. It is near impossible.

Another problem is the one that the member for Balcatta mentioned—this is not specifically related to what the minister is trying to do in this bill—namely, that if people do get a job, it may affect their eligibility for public housing.

An area that I do not think has been picked up by previous speakers is the issue of domestic violence. I am sure the minister would have received correspondence from the Women's Legal Service with regard to domestic violence. The issue is that the female may be at home, she may even be the tenant, and the male comes home and causes domestic violence, major trouble, antisocial behaviour, and the victim of that domestic violence—which is one of most insidious crimes that can be perpetrated in our society, as the government has recognised with the amendments to the Restraining Orders Act—may suffer a double penalty because she may be evicted. I think the Women's Legal Service is advocating that we need to deal with that issue so that the victims of domestic violence are not evicted from their home.

Mr T.R. Buswell: Can I just say, member, that there a lot of arguments to and fro around a whole lot of aspects of antisocial behaviour. But on that particular issue, I think the department is attempting to be as sensitive and pragmatic as possible. In some other areas, we are probably less tolerant of taking a more flexible approach, but in that area I think it is entirely appropriate.

Dr A.D. BUTI: It may be appropriate at some stage to introduce legislative changes to give greater guarantee to domestic violence victims. They are the main points that I wanted to raise in my contribution, but I think all the points I have made point to the fact that the government has to look at an increased resource allocation to try to deal with the fact that as a result of this legislation there will probably be a greater number of people evicted. It may work the other way. It may be a deterrent and behaviour will improve. However, I do not think the legislation of itself will necessarily deter people from antisocial behaviour.

Mr T.R. Buswell: We hope so.

Dr A.D. BUTI: We hope so, but on its own I am not sure. It may be that the measures the member for Willagee mentioned need to be considered by the government.

Mr T.R. Buswell: My preferred outcome would be no evictions because there is no need.

Dr A.D. BUTI: I am sure we all feel the same, but I do not know whether that is realistic. We can only hope. I hope that the government will consider an increased resource allocation to deal with the consequences of increased evictions if that results from this legislation.

Debate adjourned, on motion by **Mr C.J. Barnett (Premier)**.