

LAW AND ORDER, RESOURCES

Motion

MS S.E. WALKER (Nedlands) [4.00 pm]: I move -

That this house has lost confidence in the ability of the Gallop government to properly manage and resource law and order issues in the state of Western Australia.

I suppose it is fairly prophetic that the opposition planned to move this motion today given the underhanded way in which the Mahoney report was tabled in this house. I will provide an example of the sort of characters we are working with in this Parliament. I will refer also to the background of the sort of people who are sitting on the front bench. Last week the other place debated the Terrorism (Extraordinary Powers) Bill 2005. Can government members tell the house which organisation in Western Australia was the first to plant a bomb in St Georges Terrace, the Perth central business district of this state? The Australian Labor Party planted the first bomb. They were members of the ALP nursery at the University of Western Australia, some members of whom have been elevated onto the front bench of this Parliament. That reflects their ideological attitude to law and order: if they do not get their own way, they will plant a bomb and create a catastrophe. That is a reflection of what has been happening in this place since this government was elected in 2001.

On 23 August 1973, Rupert Gerritsen planted a bomb on the third floor of the Victoria Centre in St Georges Terrace. When he was eventually caught he pleaded guilty. At the time he was a member of the UWA ALP nursery, as was the Attorney General, the Treasurer and "Bomber" Beazley, the federal Leader of the Opposition. In fact, "Bomber" Beazley and the Treasurer gave him a character reference. At the time it was a sensational case. We have debated in this Parliament also the government's handling of Mr Ripley's case after he had spent 30 years writing to the Premier and this Parliament about the way he says he was "fitted up" by the member for Yokine when he was a detective sergeant. We know from history of the Lewandowski affidavit. However, I will concentrate on what has happened this year in the Attorney General's portfolio.

Firstly, on law and order issues, I refer to 24 March this year when a lot of media attention was paid to the release by the Attorney General of convicted serial paedophile Robert Ernest Excell. Interestingly, today I received a lot of calls about Paul Stephen Keating receiving legal aid. This Parliament knows that Stephen Keating, whose photograph is on the front page of *The West Australian* today, raped, in violent circumstances, two government employees, each at a different prison. I have received a lot of calls from people about the Attorney General's comments reported in the newspaper that Mr Keating would never be released. That is exactly what the Attorney General said before the election about Mr Excell. He did not say that he was one of the most dangerous offenders; he said he was a shining example of someone who would not be released. What did he do? He released him.

I will touch on some of the matters that have arisen this year. On 30 March I called for the abolition of the Parole Board of WA, because it had recommended that double-murderer Brian Edwards be placed in a pre-release program in a minimum-security prison, from which he walked out. A report that was tabled in Parliament today caused quite a sensation because of the way in which the government dealt with it. That is what this motion is about; that is, how the government uses its law and order resources and manages law and order issues. The government has not managed them very well. I will not touch on the Mahoney report at the moment.

I did not take on the justice portfolio this year, because how many ways can one say that the justice system is a mess and that there have been bungles and stuff-ups? I ran out of adjectives. The member for Hillarys now has that problem. There have always been bungles and stuff-ups in the Department of Justice.

The opposition recently sought to tighten the Dangerous Sexual Offenders Bill to make sure that if Mr Narkle were released, he would be sent back to prison before he committed another rape. The Attorney General and the government promised to introduce a bill to make sure that when Mr Narkle was released, he would be taken off the streets again. When we moved to amend the bill, the Attorney General would not approve the amendment. The government has refused to allow people like Mr Excell to be released into our community because of the political backlash that would occur, so it has shipped them off to distant communities, where they will probably reoffend.

There was also the debacle at the beginning of the year over the discovery at the back of the Maylands police complex of \$95 million worth of rusting confiscated material, such as boats, trailers and motorbikes, while the Office of the Director of Public Prosecutions was being resourced on the smell of an oily rag. The Corruption and Crime Commission was getting \$32 million to handle 47 serious cases while the DPP was getting \$14.2 million to handle thousands of indictable matters. This confiscated equipment was at the back of the Maylands police complex - the old parade ground - for everyone to see. The government was brought kicking

and screaming to this issue by the opposition. I asked questions about the performance of the DPP. The number of judicial days lost was revealed through answers to questions on notice that I had asked. The Office of the DPP is the prosecution agency that has responsibility for all serious offences in Western Australia. However, it has taken the government nearly five years to give the DPP a modest increase in resources. The damage has been done. Staff morale is very low. The Office of the DPP had to go cap in hand to the government for money to pay extra wages. It could not pay its senior prosecutors. It has lost so many senior prosecutors that it will not get them back in the short term. It will take at least 10 years for the office to get up and running again. That is because the Attorney General has neglected that office.

The Attorney General was obsessed with undermining and getting rid of the Anti-Corruption Commission. What happened? The acting commissioner of the new Corruption and Crime Commission got up to no good and has now been charged with serious criminal offences. The government attempted to sweep that matter under the carpet by filtering the report of the Parliamentary Inspector of the Corruption and Crime Commission through the Joint Standing Committee on the Corruption and Crime Commission. It wanted to keep it under wraps. I called for that report to be sent to the DPP. On the morning after the report was tabled, the Attorney General suggested that the Office of the DPP did not investigate such matters. Nobody said that it did. At 8.40 am the Attorney General said that he would not send the report to the DPP. By 10 o'clock he had called a press conference for 12 o'clock, at which he said that it was on its way. The way in which the Attorney General manages his portfolio is very strange. He said that he would send the parliamentary inspector's report to the DPP, but he could not explain other questions on the Moira Rayner matter. Those questions have been left unanswered. He said that he could not answer the questions that I asked about fresh evidence in that matter, yet he could answer questions and be briefed on other issues. About a month ago I asked the Attorney General whether a description of the fresh evidence was contained in the memorandum from the commissioner to the parliamentary inspector on 9 August. I could not get a response. I cannot remember what the Attorney General said, but he said that, basically, it was not his area - something like that. I also asked him whether Mr McCusker, the parliamentary inspector, was aware of the tape that contained the fresh evidence prior to doing his report, because after the joint standing committee held its press conference to say that it would send the report on, in *The West Australian* the next morning, as I recall, Mr McCusker was reported as saying that he would be very surprised if he did not have everything from the Corruption and Crime Commission when he made his report. I believe those questions are important questions. I would like to know whether Commissioner Hammond mentioned or was aware of that second tape with the fresh evidence when he wrote to Mr McCusker on 9 August. I would like to know whether Mr McCusker himself was aware of that fresh evidence tape. I want to know whether he was aware of the tape, because I still cannot quite understand the parliamentary inspector's report regarding quite an in-depth analysis of whether there had been any misconduct by Ms Rayner, but just a couple of sentences about criminal charges.

That is not really what I want to talk about during this debate. I want to talk about two cases: the case of Mr Paul de Souza, which was the subject of some criticism by a magistrate in London recently, and the recent decision by the Court of Appeal on a CCC matter regarding contempt proceedings and involving Messrs Sorani and Aboudi. Before I go on to those two matters, I want to briefly say that there have been other instances in which the government has put the interests of very serious offenders above the safety of the people of Western Australia. It has done that very symbolically in the Sentencing Act. It has watered down the provision that people such as that could not be bailed or could not get parole unless community safety was the paramount concern. I believe that was watered down to number eight of 10 provisions, and yet that is the paramount concern all the way through the Dangerous Sexual Offenders Bill.

This government has been very soft on what are generally referred to in the press as sex monsters. For instance, on 16 August this year, the decision to release Douglas Ross "Peg Leg" Thomas meant that the victim had to be relocated to another state. The Premier himself was unable to explain why he agreed to release a Governor's pleasure prisoner into the community. This was in spite of a pre-election commitment to ensure that child sex offenders would be kept in prison. The Premier, and I think the Attorney General, went to the Supreme Court and said that they would not release serial sex offenders back into the community. Here we go. In a media release dated 5 February 2005, the Premier made an election commitment that -

Convicted child sex offenders will be locked away indefinitely under a new Gallop Government plan to further crack down on child sex abuse.

That was not true, because the Premier has released quite a few serial sex offenders.

This year I also raised the problem that the District Court has with a backlog of cases. Hundreds of judicial days have been lost when a judge goes on circuit in the regions and cases fall out. Many cases that are listed fall out, and the judge is left with no case. That totted up to quite a significant number of judicial days being lost in one year. I support Her Honour the Chief Judge of the District Court, Judge Antoinette Kennedy, in her call for

greater resources for the District Court. When I attended the opening of the Corruption and Crime Commission I could see that, compared with the other courts, money had been poured into the equipment for one court that is rarely used. In a recent article in the Law Society of Western Australia's official journal *Brief*, the Chief Judge of the District Court said that if a video was required to be played in a civil matter, a criminal court had to be released to allow that to happen. It is totally pathetic and I cannot understand why the CCC received \$32 million for 47 serious cases, while the Director of Public Prosecutions is not properly funded. The damage that has been done to that department is enormous and that is the reason people, like a London magistrate, are making unfavourable comments about the DPP.

Most members would be aware of the case of Paul de Souza. His mother came to see me a few months ago and said that she felt totally let down by the system after she had tried to get help from the Attorney General and the commonwealth Minister for Immigration and Multicultural and Indigenous Affairs, Amanda Vanstone. The decision by the magistrate in a London court supports her assertions. I refer to an article in *The West Australian* headed "Where is the justice: bash victim". It reads -

Paul de Souza, who was savagely beaten by two English backpackers at a Broome pub, is devastated that neither man will ever face trial over the incident that left him with seven plates and 23 screws in his skull.

After three years and several operations, the former barman believes Australian authorities bungled the case and have been trying to protect their positions ever since.

That is what the magistrate said -

Brothers Simon and Philip Johnson were originally charged in September 2002 with causing grievous bodily harm and ordered to hand their passports to Perth Magistrate's Court as a condition of bail.

But Simon Johnson's passport was returned on December 17 . . .

It was returned because the Department of Immigration and Multicultural and Indigenous Affairs went and fetched it for him from the court. If what the court says is true, it is absolutely unbelievable. What I find disconcerting about this report, which the ABC sent me, is that no-one is taking any responsibility. No-one from either the federal or state governments has rung to speak to Mrs de Souza or Mr de Souza. No-one has asked why the court handed the passport back to the immigration department. Why did the court hand the passport back to Philip Johnson's brother Simon? Why did the immigration department not contact the DPP when it knew a prosecution was on foot? Why did the DPP not get a warrant pending the application of the criminal justice stay visa? None of these questions has been answered in recent days. It is a big, black, gaping hole. The extraordinary decision this week in London is an indictment of a commonwealth department and the state DPP.

I refer to the decision by Anthony Evans on an extradition application for Philip Johnson. Both brothers were charged on 20 September 2002 that they did cause grievous bodily harm to Paul Michael de Souza. He was savagely beaten - punched and kicked in the face - by those brothers. I cannot understand that level of violence, and I saw it quite a lot as a prosecutor. Paul de Souza was left with seven plates and 23 screws in his skull, and those brothers will not be brought to justice. Why not? Because apparently, following a wave of media pressure when the two men were handed back their passports, which had been confiscated when they were detained in Broome, the state DPP decided to commence extradition proceedings. The two men left Western Australia for England on 17 December 2002, but extradition proceedings were not asked for by the police until 7 November, 10 months later. On 8 January, some 10 months earlier, the Director of Public Prosecutions said that even if Philip Johnson came back - he supposedly did the most damage to Mr de Souza - he would serve only two or three years' imprisonment and that it was of "insufficient gravity" to warrant an extradition. I find that extraordinary. Magistrate Evans had a fair bit to say about the events leading to the extradition application and the application itself.

This matter is a reflection on our law enforcement agency. Parliamentarians should be aware of what is being said in the courts. It is similar to a recent Court of Appeal decision on the two members of the Scorpion Boys who got off contempt charges. Nobody from the government has stated what are the problems outlined by the Court of Appeal and what the government is doing to address them. That is because not many people read the court judgments. I think parliamentarians should know what the courts say and the opposition should ask the government what it is going to do about it.

I will give members a brief date outline of these matters because it is important. Mr de Souza was attacked on 14 September 2002 and two days later the alleged attackers were remanded in custody in Broome. On 11 November 2002 their passports were confiscated and they were sent to Perth. On 8 December the bail was varied and their court appearance was adjourned until 15 January. They were released into the community on 8 December, but on 10 December their visas expired. Therefore, on 11 December Philip Johnson went to the office of the Department of Immigration and Multicultural and Indigenous Affairs and asked for an extension of

his visa. The magistrate said that Philip Johnson told the office that he had to face charges pending a prosecution and that he wanted to be able to stay in Australia to attend the proceedings. On 12 December Mr Rose from the compliance department gave Philip Johnson a bridging visa until 20 December. That afternoon, according to the magistrate, the immigration officer went to the District Court and got Philip Johnson's passport back.

I will outline the findings of the court in London so that members have an understanding of it. The judgment is handwritten and is difficult to get through. It says that it is clear from the papers that the immigration department was determined that Mr Johnson was to leave Australia as soon as possible, either voluntarily or involuntarily, and that the immigration department was not concerned about the state prosecution. The judgment says that the Migration Act was all important and that the DPP was dilatory in making an application for a criminal justice stay visa, having been misled or misunderstood by the immigration office. The magistrate was quite satisfied that no misrepresentations were made by Mr Johnson. The magistrate said also that *The West Australian* extract showed that Robert Cock said - as I have said - that if Mr Johnson was returned, he would serve only two or three years in prison and that the matter constituted insufficient gravity to warrant extradition. The police asked for the extradition only on 7 November 2003. This followed a great deal of bad feeling and attempts to blame each other when the accused left the country. Mr Johnson applied for a bridging visa to see the prosecution through but the immigration department assisted Mr Johnson to return to the United Kingdom; it fetched his passport from the court.

The judgment found that after having gone back to the UK and having been forced out by the immigration department when he tried to get a bridging visa to remain in Australia, Mr Johnson set up a house in Spain and voluntarily returned to the UK for the extradition proceedings. The judgment found that it would be unfair to bring him back to Australia now after the immigration department had forced him out and the DPP had failed to get a warrant pending application for a criminal justice stay visa. It would be unfair because Mr Johnson had started a new life and there has been a lapse of three years. The magistrate looked at the two affidavits of Robert Cock, the state Director of Public Prosecutions, and said that they contained the inference that Johnson had absconded while on bail. He said that there was a gap of one year between the time the DPP said that he would not start extradition proceedings and when he said that he would, but that there was no explanation for the delay. He said that if the DPP had been really serious, Johnson could have been arrested under provisional warrant, but the DPP chose not to do that. He said that Mr Johnson had heard nothing for two years and that it was an exceptional case. He said that extradition is a serious step and that the government must be completely straightforward and honest. He said that in this case the government had not been straightforward and honest, that bad mistakes had been made and that departments had blamed each other and had sought to cover up their own errors. He said that the extradition proceeding was an attempt to rectify mistakes and that that was not the way to make such applications. He said that on the balance of the scales it was an abuse of process. He attributed the DPP's stance from 8 January 2003 to what the papers had said was media pressure. He had some very damning comments to make about the evidence of the officer from the Department of Immigration and Multicultural and Indigenous Affairs and the affidavits from the state director.

Where has this left Mr de Souza and his mother? It has left them totally devastated. This extradition was a completely ham-fisted attempt at commonwealth and state levels, and this has denied Mr de Souza his day in court and justice after a brutal and severe bashing. The magistrate found that Johnson had been forced out of Australia by the immigration department while on bail. The department had picked up his passport from the court that afternoon and did not care about the state prosecution. The magistrate said that the immigration department, having kicked Johnson out, now wanted him back, mainly because of media pressure by the family. He said that the department was not honest and straightforward.

Nothing by the state government has been said about this case. However, Paul de Souza's mother wrote to Amanda Vanstone. I have with me a copy of the letter and a letter from Mrs de Souza to me of 16 November 2004 in which she outlines the story. We have not heard the whole story, but I have Mrs de Souza's permission to read some of her letter to me this afternoon. As a mother, she has had to put up with not only bumbles by the various departments but also more than that. Her letter to me states -

Dear Sue,

...

I refer to our recent conversation with regards to my inquiry about applying for an Ex Gratia Payment to Paul with regards to his case.

...

My personal reasons for seeking such an application are as follows:-

I think as a Victim the treatment he has received has been disgraceful from all levels of Government.

The incident and the injuries speak for themselves so I won't go there with you.

I also will not go there. She goes on to say -

His treatment pre-op at Fremantle Hospital was disgusting to say the least. We were told that a team was waiting for him on arrival from Broome where he was air evacuated wasn't the case. They operated on him on Day 4 after me threatening the Medical Supt at Fremantle that I would go public. He was on a total fast from the time of admission until surgery. Because of this he continually missed meal times and he was presented with sandwiches or a plate of salad for his nutrition and . . . lost an enormous amount of weight. Try eating that type of food with the amount of fractures he had in his face. As a consequence I continually purchased soft foods from the local chinese shop. I put in an official complaint to Medical Admin so my complaint is documented. On the afternoon of Day 3 when I made the threat to the Med Supt I was assured he would be done that night. I was with Paul when they came for him for theatre and I left saying I would be back as late as midnight as it was expected to take some 4-5 hours of surgery. This would have been about 7.00/7.30 pm. I went to friends for dinner and received a call from Paul . . . some 2 hours later, he was back in the ward, he was extremely emotional, angry and wanted to leave. While he was in theatre another case came in which they had to do . . . but they had him up . . . on a trolley for nearly 2 hours. To rub insult into the wound he was in earshot of arguing between medical staff of whether they would or would not do him. He was even asked did he have private health insurance on the trolley in a theatre. That I can assure you is completely unethical. My complaint . . . is also documented. . . I was still distraught the next morning and I was at work by 7.00 am as I was having so much time off each day to be with Paul. My boss who is a high profile orthopaedic surgeon phoned me early on my mobile to see how Paul was . . . I told him the latest and he came straight in and rang Freo with the plan that he would pull him out himself, get him admitted to the Mount as a mercy case . . . he was so disgusted.

She goes on to say -

He returned eventually to Broome once he got a clearance with post op checks where he sought legal aid to see where he stood. The 2 Johnson Bros were inside. He was declined legal advice on the basis of conflict of interest and told to go to Aboriginal Legal Service in South Hedland some 600 klms away, keeping in mind, his face is still like a football, he is not well and he is on sickness benefits. . . Later it was established that these British guys should never have been given legal aid because of their financial status. This was substantiated by a spokesman from legal aid in Broome.

She goes on to refer to the debacle with the passports and the fact that they got away. She was told that it was human error. She continues -

The State and Commonwealth Depts thereby in my opinion have failed my Son and have made it extremely difficult in effect by denying him the possibility of taking out a common law suit on both Bros.

She goes on to say -

Then the Police Commissioner from the Sept 14th incident until May 2003 publicly stated he would go after them. The DPP said no all along as he thought the case was weak. This devastated Paul as any Psychologist will tell you that the major component of a Victim's recovery is closure and it seems this wasn't to be.

They had to lodge an appeal for criminal injuries compensation, and they had to pay more money to do that. She says -

Sue this case has been so fragmented from day one. No-one in my opinion from the Minister down knows what the left hand and the right hand are doing.

That is borne out if one reads the appalling decision of the magistrate. I read the decision. It is a very comprehensive decision by the magistrate. He cross-referenced everything, he referred to documents and he supported his arguments about the way in which the case had been handled by the state and by the commonwealth. She says -

Paul has changed so much as a person and his life has been turned upside down and I am not being melodramatic about that. I believe strongly that Govt blunders have contributed to that. What gets me is in his application for compensation all the disappointments he has had and the brick walls are not considered relevant, to me they are, because if he wasn't a victim, he wouldn't be in this situation and he wouldn't be affected if it wasn't for circumstances.

I think that Paul de Souza is entitled to some compensation for what has happened to him and for the blunders. There needs to be some explanation for what has happened. There has been no explanation from the Director of Public Prosecutions, the Attorney General or the Premier. What happened? Why were the Johnson brothers

bailed? Why was a provisional warrant not applied for by the DPP? Was a prosecutor present when they were bailed into the community? Why did the District Court give the immigration department a confiscated passport? Why did the District Court personally give Mr Simon Johnson his passport when he went there a few days later? Why was a criminal justice stay visa not in place? Why was there a breakdown in communication between the commonwealth department and the state department? Why did the commonwealth continue to enforce the Migration Act when it knew that a serious state prosecution was afoot? There has been no answer from either the state or federal government, and I think that is very poor.

I have raised the issue today because it is an example of how this government manages issues that are embarrassing to the government. It says nothing. I asked Ms de Souza this afternoon whether she had heard from the commonwealth or state government. No; she received a call from Robert Cock at about 10 o'clock on the morning of the decision, but she has not heard anything from either government. I think it is a disgrace. It has been a complete bungle and a stuff-up. In a major part it is a reflection of the appalling lack of funding to the office of the DPP over the past five years. That is well documented. The Attorney General has said that he will give the office X amount of dollars over the next few years. However, that figure is paltry. The government allocated the Corruption and Crime Commission \$32 million and then cabinet gave it an extra \$10 million. At \$22 million, the CCC's budget is double that of the Anti-Corruption Commission. In this year's budget estimates, the government gave the CCC an extra \$10 million. That organisation is very much a shambles. The people concerned are entitled to answers and compensation. This is an example of the way this government has managed law and order issues in this state.

I refer now to a front page article of *The West Australian* of Friday, 4 November 2005, the heading of which reads -

Gang duo walk free as crime body fails.

Once again, although the Court of Appeal handed down findings and made observations about the CCC, nobody said anything. It was all damage control. I will outline the Supreme Court's decision - I believe that parliamentarians should know what was said - because in my view a golden opportunity to bring perjury charges against the two men was missed. Parliamentarians should know what the Supreme Court said about the CCC's procedures and processes so that they understand what is going on. Frankly, only two or three members would be aware of the Supreme Court's findings. Certainly, the CCC is not saying. On 8 November, I gave notice that I would move a motion. That motion has not come on for debate. I refer members to private members' business notice of motion 17, which reads -

That this house calls on the government to -

- (a) inquire and report on the circumstances regarding the Corruption and Crime Commission's failed contempt application against organised crime associates Marco Sorani and Hasaneen Mosa Issa Aboudi; and
- (b) advise what measures will be taken to bring them to justice and to ensure such an outcome does not occur again.

I assume that after I gave notice of that motion the member for Perth phoned Commissioner Hammond, because I suddenly received a copy of a letter that the commissioner had sent to Mr Hyde. I believe it was inappropriate for the commissioner to send me that letter. The letter reads -

Dear Mr Hyde

Yesterday afternoon, . . . the Commission became aware that Ms S.E. Walker had given notice that she had moved today that the House would call on the Government . . .

He then refers to the establishment of a committee and states -

With the greatest respect to the Parliament . . .

In the Commission's respectful view, any question or requirement of the Parliament for an enquiry or reports with regard to any matter concerning the Commission generally, and this organised crime matter specifically, should be put to the Joint Standing Committee and not the Government. Consequently, I believe that it would be inappropriate for the Commission to provide advice to the Attorney General concerning issues that may arise as a result of the abovementioned motion to Parliament.

I find that strange on two fronts. First, during the Moira Rayner affair the Attorney General could get information all the time; now he cannot. That is a bit strange. The intention of my motion was to refer the Attorney General and the government to the Supreme Court decision and to ask what the Attorney General was going to do about those issues. I did not intend to have another body set up. I intended to inform Parliament about the Supreme Court's decision, which is what I will now do. Parliamentarians need to know what was said

in that decision because after it was handed down, everyone went quiet and shtoom. The member for Perth then revealed that, as a result of the decision in the Supreme Court, the government would change the legislation. The Supreme Court decision did not refer to the legislation. I am not saying that the legislation does not require amendment. However, the Supreme Court decision did not refer to the legislation. It referred to the procedures adopted by the CCC and to the fact that the documents used in the Supreme Court application were flawed. I thought that the commissioner was a little hasty when he wrote that letter. I am entitled to raise motions and discuss issues in Parliament, as I am about to in relation to these matters. I could understand if the commissioner assumed that I had meant something else.

On 3 November I was telephoned by a journalist and asked to comment on a decision handed down by the now Court of Appeal in Western Australia. That was in the matter of Kevin James Hammond v Aboudi [2005] WASCA 204, which was heard on 25 August - quite a time ago - but the judgment was not delivered until 3 November 2005. The matter related to section 163 of the Corruption and Crime Commission Act 2003 and punishment of contempt of the commission. Attached to the letter that the commissioner sent to John Hyde, of which I received a copy, was a very extensive opinion by state counsel, suggesting there should be an application for special leave to the High Court in relation to the Court of Appeal. As I understand it, that will not happen.

The matter was heard in August and the judgment delivered in November. I did consider the judgments, and I must say that I was surprised at the comments in the leading judgment by appeal judge Justice McLure. Although the Attorney General has said that the legislation needs to be considered, the appeal court did not make any criticism of the legislation per se. The facts are that the commissioner of the Corruption and Crime Commission brought proceedings for contempt of the Corruption and Crime Commission against Marco Sorani and Mr Aboudi. On 25 February 2005 an application was made by the Commissioner of Police for an exceptional powers finding, pursuant to section 46 of the act. The subject matter of the application was events that occurred during a physical altercation between various people in the course of an incident at the Metro City nightclub in Roe Street in the early hours of 23 January 2005. In the course of that incident Mr Troy Mercanti was stabbed and Mr Dabag was shot. A number of people were arrested and charged. Mr Sorani and Mr Aboudi were not charged with any offence related to the incident.

The commissioner considered the evidence and made an exceptional powers finding on 25 February. This is important because of comments that the court makes on how the proceedings were conducted. Mr Sorani and Mr Aboudi were required to attend for examination on 9 March. They did and they were separately examined. If I may prune it down, they were shown a surveillance camera video of the events that occurred. They were very much involved in the incident. When I say "involved", they were in there and involved in various ways - people can read it for themselves - in the shooting and the stabbing. I am not suggesting they did it; I am saying that they were involved and in the immediate area. In answer to a number of questions asked of them by Mr Tannin, SC, they both responded to the effect that they were unable to remember and they attributed their lack of recollection to intoxication.

The contempt charge was brought under part 10 of the act. It was alleged that Mr Sorani and Mr Aboudi breached the provision of the act that when a person "fails to answer any question relevant to the investigation that the Commission requires the person to answer", that person is, therefore, in contempt of the commission. The notice of motion was accompanied by certificates. They stated that in the notice of motion initiating proceedings against Mr Sorani the commissioner sought an order that he do stand committed to prison or be fined for failing to answer questions relevant to the investigation that the commission required him to answer on 9 March and, having been served with a summons that required him to attend again, he failed to answer questions relevant to the investigations. A similar sort of certificate was supplied for Mr Aboudi. Digital surveillance images were also tendered. I will not go through all that. The question I ask is how did the two men come before the commission? They came because of an application made by the Commissioner of Police to the commissioner to authorise the use of exceptional powers investigation provisions that were given to assist in combating organised crime. The commissioner found in the affidavits before him that there were reasonable grounds and he granted the Commissioner of Police those powers. At pages 8 and 9 of the judgment, there are some questions asked of the men by Mr Tannin, SC, as well as some answers. I do not intend to go through them. The court went through the element of the contempt charges and found, firstly, that the commission, in its papers, did not identify the specific questions that the two men failed to answer. During the analysis, the court raised the issue at page 15 of whether the questions asked at both examinations of the two men by Mr Tannin were outside the scope and purpose outlined by the commissioner. Page 15 of the judgment states -

At the commencement of the second examinations on 12 April 2005 the Commission identified the scope and purpose of the examinations as being to find out whether offences, not limited to the section 5 offences, had been committed.

The document then goes into what the commissioner said. The commissioner made a substantially similar statement to Mr Sorani. The court said -

The Commission's statements as to scope and purpose raises questions as to the validity of the first and second examinations. That was not addressed at the hearing and can be taken no further without hearing from the parties.

...

The third element is that the Commission requires the person to answer the question.

...

The approach taken in this case was that, at the commencement of each of the four examinations, the Commissioner informed the witness that if the witness failed to answer any question the Commissioner required him to answer, he would be in contempt of the Commission; that the witness may accept that when Mr Tannin asked the witness a question, he was doing so on behalf of the Commissioner and the witness must answer it; and that if the Commissioner was of the view that the witness should not answer the question, he would stop the question.

The court stated -

It is clear from the Commissioner's statement and the terms of the summons that Mr Tannin was acting in the capacity of counsel assisting the Commission under s 143 of the Act. Section 49 of the Act contemplates the Commissioner of Police participating in the examination by legal counsel and examining the witness. That is consistent with the purpose of the Act ... giving the police exceptional investigation powers ... In this case it appears the Commissioner of Police was not legally represented, did not participate in the examination and did not examine the witnesses at any of the examinations. A question arises as to whether s 49 requires a separation of the roles of the Commission and the police with the Commissioner of Police examining the witness and the examination being supervised and controlled by the Commission.

We have not heard anything from the Attorney General about that. We have not heard anything from the Attorney General about whether, in the legislation that is being brought on, the government will clarify the issue concerning the separation of powers. We do not know whether the Attorney General has read the judgment. We do not know whether he understands the judgment. I take my job seriously and I would like to know some of the answers. The document continues -

At no stage in the course of questioning in the first examinations did the Commission require the witnesses to answer a specific question.

...

Further, it is apparent from the questions asked at the second examinations that the Commission's focus was on the falsity of the answers at the earlier examinations rather than any failure to answer questions.

The court found that the men answered the questions but they did not answer them in a way that the commission wanted. The court raises the second issue of whether the contempt was the provision of false answers as opposed to the failure to answer. The document further states that the commissioner's introductory remarks were, in a sense, flawed -

Thus, the only occasions the Commissioner referred to the failure to answer a question was in his introductory remarks in opening at the commencement of each examination.

...

A witness is unlikely to be aware without being told that an unsatisfactory answer can be a constructive failure to answer at law or that the Commission has regarded his answer as a constructive refusal.

Therefore, they did answer the question. It appeared obvious from the way the men were acting on the video that they knew what they were doing, they were fully alert and they were not intoxicated. When they said that they were intoxicated, the commissioner felt that they were not answering the question appropriately, in my view. I want to know how the commissioner will proceed in future in relation to the sort of statement he makes to witnesses who are summoned to appear before the commission. We have not heard anything about that. I want to know whether the questions asked went outside the bounds of what was supposed to be asked, because the court makes observations that they did. We have not heard anything about that. These are questions that this Parliament should be interested in. These are questions that the Parliament should be asking. We have heard nothing from the Joint Standing Committee on the Corruption and Crime Commission either about the issues raised. The chairman of the committee could have said quite succinctly - I would have had some respect for him if he had done so - that these were the issues and observations of the Supreme Court; that he had discussed this with the inspector and the commission and that these are the procedures that will be put in place; that he has received an opinion from state counsel to seek application, especially to the High Court, but it has not been done because of (a), (b) and (c). A journalist has said to me that the reason the commission will not appeal is that it

takes so long. My goodness, we are going into recess now and who knows when we will be back - who knows when that legislation will go through Parliament? That is not satisfactory. The way that the reports are filtered through to this Parliament is not satisfactory. It is not transparent enough. I would have liked some answers, and I think they are important answers. This is very powerful legislation. We have a right to receive responses on these issues. The commission should translate what was said in the Supreme Court and explain how it will deal procedurally with people when they are summoned to the commission in future. I really feel that that should happen.

The court also found that the men would not have been aware, on the basis of the warning given by the commissioner, that they had constructively failed to answer the question. The commission found that the description of the subject matters and the certificate was inadequate. I refer to the exchange of questions between Mr Tannin and the witnesses. The commission said -

On a number of occasions in the above exchange Mr Sorani did not merely claim that he had a memory of the events. For example, he said he did not see Mr Dabag being shot and he did not know whether Mr Kizon or Mr Mercanti had a firearm. The inference from the Sorani Certificate is that his answers to all questions on the specified events were that he had no memory of the events. That inference is not borne out by the transcript. Accordingly, it is unclear whether the Commissioner contends that Mr Sorani's answer that he did not see Mr Dabag being shot is a constructive refusal to answer. Further, it is also unclear whether Mr Sorani's answer that he had no idea whether Mr Kizon and Mr Mercanti had a firearm is alleged to be a constructive refusal to answer.

There are similar difficulties with the first examination of Mr Aboudi, and reference is made to the transcript. The commission also found that the men were prejudiced by failing to specify the questions that they failed to answer. At page 24 of the judgment the court said -

It is unclear whether the first segment of the examination in which the witness says he was at home when he first heard that Mr Dabag was shot is the subject of the contempt charge.

In the second examination of Mr Sorani the questions were framed to confirm the evidence given at the first examination. At his second examination, Mr Aboudi was not asked questions about the events on the night in question but was simply asked whether he wanted to add or change what he had said previously. It is more accurate to characterise the questions at the second examinations as relating to what was said at the first examination. In any event, the problems with identifying the relevant questions in the first examinations consequently taint the second examinations.

... the contemnors are materially prejudiced -

That is, the two men -

by the failure to specify the questions they failed to answer. ... Furthermore, there needs to be certainty as to the specific questions the subject of the charges so that the defendants know precisely what is required in the event they were minded to purge any proven contempt ...

The judgment concludes -

I have concluded that the Commission has not established all the elements of the statutory offence of contempt. In particular, it did not require the witnesses to answer the questions to which there had been a constructive failure to answer. Furthermore, the notices of motion are defective in failing to sufficiently identify the questions the subject of the contempt charges.

What did that mean? It meant that the next day there was a big story on the front page of *The West Australian* - and rightly so. It is a very damning judgment. It is not talking about the legislation. It is talking about the procedures. It is saying that the commissioner made an application for exceptional powers but then, having been given those powers, did not turn up, theoretically, because Mr Tannin was ostensibly acting for the commissioner. Was he or was he not, and what is the commission going to do about that? We need to know. We need to know also whether the questions were outside the exceptional powers or the charges laid. The judgment also raised the issue of whether perjury charges should have been laid instead of contempt charges. Are we not entitled to know why that decision was made? I believe that as parliamentarians we are entitled to know. We are pumping \$32 million into the CCC -

Mr M.J. Cowper: It is actually \$36.2 million.

Ms S.E. WALKER: That is a lot of money. An article such as this on the front page of *The West Australian* undermines public confidence in the CCC. I can understand why a few people at the top of the law enforcement agencies in town would want to downplay the criticisms of the CCC. That is what has happened. A comment is made in the article that this issue will be looked at, because the findings will be reviewed by both the WA police and the CCC.

This decision is a public document. It is damning of the procedures of the CCC. The Attorney General should come into this place and tell us whether he agrees with what the court has said. That is all I am asking. The Attorney General is responsible for this legislation. He cannot suddenly say, when things go bad, that he is not responsible, because that undermines public confidence in the system. Some people would say that I am undermining it further by raising this issue. No, I am not. I want the system to work. I do not like things to be swept under the carpet and not talked about. I like things to be transparent, open and accountable. That is why I have raised this issue, and I am very grateful that my colleagues have given me the time today to present to the Parliament, in very brief form, what this comprehensive judgment says, because no-one is appealing this decision or saying anything about it.

The way in which this government manages issues such as organised crime is absolutely appalling. The way in which the Attorney General managed the Moira Rayner affair, and the way in which the member for Perth continually defended her in the Parliament, is also absolutely appalling management of such a serious law and order issue. I also wanted to tell the Parliament about the damning comments in that London court decision. I believe that part of the problem is that the DPP is desperately short of resources. When people are desperately short of resources and have an enormous increase in workload, such as has occurred in the office of the DPP, mistakes are made. I am very concerned about the way in which this government manages law and order issues. I believe I have demonstrated that not only am I and the opposition concerned, but also the Court of Appeal is concerned, a London court is concerned, and the High Court is concerned because of the recent decision in the Mallard case. That is without even going into all the other issues that I have raised in this motion. The Attorney General told me yesterday that, all of a sudden, he has been briefed by Mr Tannin on what lies behind this, so I am sure he will come into this place now, having not been able to tell me before, and tell me all about it. I urge members to support the motion.

MR R.C. KUCERA (Yokine) [4.59 pm]: I will not go into all the details on the issues raised by the member for Nedlands; I will talk about Paul de Souza. Before I became a member of this house, I worked in an occupation that dealt with many victims of crime. Consequently, I feel for the de Souza family, particularly Mrs de Souza and her concern for her son. There is no doubt that his injuries were shocking. I do not usually agree with the member for Nedlands whose performance in addressing issues that deal with the courts generally was fairly incompetent. However, I agree with her on one aspect.

Mr J.E. McGrath: You don't really mean that about her performance.

Mr R.C. KUCERA: The reputation she enjoyed among police officers as a prosecutor is not one I would hang on the wall.

The DEPUTY SPEAKER: I take it that the member for Yokine is not the lead speaker.

Mr R.C. KUCERA: I am not the main government speaker on this motion, Madam Deputy Speaker. I will speak on the de Souza issue.

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr R.C. KUCERA: I agree with the member for Nedlands' comments about the Department of Immigration and Multicultural and Indigenous Affairs. In my previous role as state Minister for Multicultural Affairs and Citizenship I had many meetings with Senator Vanstone. There is no doubt that the federal immigration department is in absolute crisis, led by a totally incompetent minister, whose Prime Minister and cabinet refuse to take any notice of the situation.

Ms S.E. Walker interjected.

The DEPUTY SPEAKER: Order, member for Nedlands!

Mr R.C. KUCERA: I refer to deportations in particular. We need only look back to Cornelia Rau's plight and, that of Vivien Solon, the woman who was recently brought back from the Philippines. I posed questions when I last met Amanda Vanstone in Alice Springs earlier this year, where we addressed deportations generally. The minister was unable to verify whether anyone had been either deliberately or, as occurred in the case of the Johnson brothers, wrongly deported when issues were pending against them. As an ex-police officer, I asked Senator Vanstone whether she knew how many people had deliberately used the immigration system to be deported to escape punishment. It seems to me that the de Souza case highlights that kind of behaviour. Senator Vanstone pooh-poohed that proposition. She said that it could not possibly happen in this country. The de Souza case is a clear example of that. At that stage this issue did not involve the DPP; it involved an incompetent immigration department.

Ms S.E. Walker interjected.

Mr R.C. KUCERA: Madam Deputy Speaker, I seek some direction. I sat through the diatribe from the member for Nedlands without interjecting. I expect the same courtesy. Senator Vanstone pooh-poohed the notion that anyone would be deported either deliberately or to avoid punishment. When we started to inquire into Cornelia Rau's circumstances and other situations like hers, we discovered that the Department of Immigration and Multicultural and Indigenous Affairs appears very clearly to be in crisis. It is a rudderless ship. For many years I dealt with the people who run the immigration department at the grassroots level. Very few people in this house would share the deep concern for refugees in this city that I and the member for Girrawheen share. The member for Hillarys' electorate and your electorate, Mr Acting Speaker, are no different, given the number of refugees in them.

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr A.P. O'Gorman): Order, member for Nedlands!

Mr R.C. KUCERA: I am amazed that there are 5 000 refugees in this city at the moment, many of whom have no settlement support whatsoever and are treated like second-class citizens by a government that allows people to migrate here, dumps them and expects them to get on with their lives. Early in her speech today, the member for Nedlands denigrated the system and the Director of Public Prosecutions. Western Australia has a very fine DPP. I worked with Directors of Public Prosecution for more than 35 years. The Office of the DPP is made up of a great bunch of people. It is quite amazing that the member for Nedlands should denigrate the DPP, given her track record.

Mr C.J. Barnett: You just denigrated the member for Nedlands' contribution to the DPP.

Mr R.C. KUCERA: The record of the member for Nedlands with the DPP probably speaks for itself. I do not know of many people who go to work at that office in their bathers and with a towel draped around their shoulders. We will not get into that. Why is the DPP being denigrated when this is an issue for the Department of Immigration and Multicultural and Indigenous Affairs? As I have said, there are many hundreds of cases like the de Souza case. In that instance, a couple of thugs came out of a nightclub or hotel and virtually bashed a person to death, and were then able to escape because of the incompetence of the federal immigration system. One must question what on earth is going on in this country. I posed that question to Vanstone. However, she never bothered to reply to the letters that I sent her. I asked her to find out whether her department had checked such basic things as the fingerprints, photographs, names and last known addresses of the people it had deported. That could not even be guaranteed. How many drug dealers or terrorists have come into this country and have gone through the system, in the same way as these two people who returned to England? How many people have taken advantage of what has happened in this country and have then used the immigration department to get out of it on deportation orders? It is not such a wild proposition when we start to think about it.

The member for Nedlands raised the issue of compensation. There is a well-known system in this state for providing compensation to victims. I encourage Mr de Souza to go through the proper processes to make sure that he receives whatever he is entitled to.

Ms S.E. Walker interjected.

The ACTING SPEAKER (Mr A.P. O'Gorman): Order, member for Nedlands!

Mr R.C. KUCERA: I referred to the Cornelia Rau case. People have been deported by accident and have suffered dreadfully. Another family is suffering because of yet another incompetent act of the federal immigration minister.

Ms S.E. Walker: What have you done about it? Have you rung the mother?

The ACTING SPEAKER: I remind members that interjections are unparliamentary. The member on his feet is clearly not accepting the barrage of interjections that are being made across the chamber. I would like to hear what the member on his feet is saying. From what I heard previously, the member for Nedlands was heard in silence.

Mr R.C. KUCERA: Thank you for your forbearance, Mr Acting Speaker. I certainly encourage Mrs de Souza or her son to contact me. I do not have a problem with that. It is not my portfolio and it is not something in which I have been involved. The matter was raised by the member for Nedlands. Cornelia Rau and Vivian Solon are probably looking at making quite major compensation claims. One would have to say that this is a very good case that should be raised with the federal government and the incompetent federal minister, Minister Vanstone. This minister obviously does not understand how the immigration system works. It really is a scandal when this type of thing occurs. The problem does not involve just the three cases that we have heard about today; that is, the two I have described and the one that was described at length by the member for Nedlands. I was advised this afternoon by the departments in this state that more than 200 cases of possible

inappropriate deportation are under investigation. How many more deportations have allowed criminals - possibly terrorists, murderers and drug dealers - to escape prosecution in this state?

The member for Nedlands has denigrated the Office of the DPP. The DPP can work only within the system. Perhaps it does need more resources. That is a matter for the Minister for Justice. I do not know about that, but I do know that a group of darned hardworking lawyers work for the DPP. These people put in many hours and do not talk about stress or all the other issues that affect prosecutors. It is a difficult job. I take my hat off to them, and particularly to the police prosecutors in this state, who do not have the training, backup and resources of the professional lawyers. I note that the member for Murray is in the chamber at the moment. Those people take on, quite comfortably on most occasions, so-called professional lawyers and defence people. They do it very well on most occasions, I must say, without the kind of training that professionals have. The member for Nedlands has come into this place and denigrated a system that in most instances works very well. All systems break down occasionally. Mistakes are made in all systems. All people have stuff-ups. I think that was the terminology used by the member, which is probably unparliamentary; but, still, that was the term used by the member for Nedlands. Those kinds of things happen.

As I said, I had a number of meetings with Vanstone. It is important that we highlight the incompetence in the immigration system. I hate to think how many people are escaping punishment because of it. I also hate to think how many other people such as Cornelia Rau and Mrs Solon are sitting in a slum in Bangkok or perhaps in the Philippines, or how many people are perhaps sitting in and grinning at us from England, having perhaps got out of a major charge. The member should not come into this place and run down our state system, knock our judges and prosecutors and knock our Corruption and Crime Commission. All those people are entitled to receive the support that they need to make sure that this is a place that is fit to live in. It is reprehensible that a member should come into this place and pull apart the way everything is done. I must say that it is a nonsense.

As I said, I do not have with me the letters that I sent to Vanstone. I did not get a reply from her anyway, because her view at the time was that that was silly; it was a nonsense and could never happen. People would never take advantage of being deported. Of course they will take advantage of it if they are looking at spending many, many years in jail after they have savagely bashed somebody in the street. However, I will not go into the details of that matter, because I understand it is still in the process of possibly being appealed.

I worked through all this system, and I worked through the break-up of an excellent system in this state. It is something that, today, I sincerely hope the Mahoney report will address. I saw successive Attorneys General in the previous government start their empire building and bringing these things together. I saw successive Attorneys General start to privatise a system that should never be privatised. There are certain things in our society from which we can never make a profit. Certainly, making a profit from people's misery is one of them. Prisons are prisons; they are not businesses. I applaud the minister for the way in which he is tackling the system head-on. I applaud him for having the courage to take on some of the old guard and change some of the systems that were reinstituted and brought together by the previous government for the sake of economic rationalisation.

In this place we talk about parole systems. I recall specific things that happened. None of us will forget, for instance, when a staff member of a minister got a convicted murderer out of jail on weekends to spend time with him. We can all read about that. That same staff member still works for the same party. In fact, I think she is a staff member in the Leader of the Opposition's office. She got a convicted murderer out of jail so that she could have weekends with that person. That same person is now coming up for parole, as I understand it. Let us see what happens.

Mr C.J. Barnett: What are you talking about?

Mr R.C. KUCERA: The member for Cottesloe knows very well what I am talking about. We forget these things; we forget about the break-up of a system, for the sake of economic rationalisation, that had served us for nearly 150 years. We forget about the privatisation of the prison system. How many problems have we seen as a result of that? How many issues and difficulties have we all had to face - not just the ministers and the Attorney General - trying to deal with a system that we inherited and was imposed on us? Incidentally, many of these systems have contracts that are only now coming up for renewal, in the second term of this government. These systems have been imposed on governments generally, in the same way as the current immigration system has been imposed on this state, without any thought by an incompetent minister about the impact that her views and what she does have on this state. Our government inherited a fractured and a flawed system; there is no doubt about that. Consistently, we have worked towards trying to make sure that, as those contracts are worked through, we are able to do something with them.

Members opposite have simply come into the chamber and denigrated Robert Cock's staff and the officers of the Corruption and Crime Commission, who work very hard. For the very first time in this state we have a corruption-fighting system which, as an ex-copper, I am comfortable with. Corruption is now being tackled

head-on. I have no doubt that there will be more evidence of that over the next couple of years as the relevant departments work through the system. I do not care how much we give the CCC. The member for Murray mentioned the amount.

Mr M.J. Cowper: It is \$36.2 million.

Mr R.C. KUCERA: An amount of \$36.2 million is a small price to pay for accountability in government. There is nothing worse than corruption at any level of government.

Several members interjected.

Mr R.C. KUCERA: One of these days the member for Nedlands should make specific allegations instead of representing convicted terrorists, thieves and people who could not lie straight in bed. I would love the member for Nedlands to come forward with the convicted terrorist, who she is so fond of defending, and tell us who the other terrorists were who put the five kilos of nitropil in the building in St Georges Terrace. I would like to know who they are and I would love the member for Nedlands to tell us that. I would love her to stand up now and say that she is defending the very first convicted terrorist in this state. Also, I would like her to tell the father of the person whose son -

Withdrawal of Remark

Mr C.J. BARNETT: It is an entertaining address by the member for Yokine, but as part of it he made an assertion that the member for Nedlands has an association with terrorists and represents terrorists. He implied a close association in working with terrorists to help protect them and represent them. It is a very serious allegation. If it is wrong, it is an irresponsible allegation. The implication that someone in this Parliament, particularly a shadow minister and shadow Attorney General, has an association with a terrorist either needs to be substantiated or withdrawn.

Ms S.E. Walker: Who was it?

Mr R.C. KUCERA: The member for Nedlands is well aware. She keeps mentioning a person by the name of Gerritsen.

The ACTING SPEAKER (Mr A.P. O’Gorman): I ask the member to resume his seat, because I have not ruled on this withdrawal of remark.

I ask the member to be somewhat cautious in his comments. If he is making an inference against any member of this house, it should be done by way of a substantive motion. I ask the member to be very cautious in his comments. If he was implying that there was a direct relationship between the member and a convicted terrorist, he should do that in a substantive motion, otherwise I ask that he withdraw his remarks.

Mr R.C. KUCERA: I thank you, Mr Acting Speaker, for your direction. I simply referred to an issue that the member for Nedlands has raised in this house on countless occasions involving a person who, on his own admission, was convicted of a terrorist bombing in this state. If the member for Nedlands wishes to keep introducing that by way of snide interjections -

Ms S.E. WALKER: Mr Acting Speaker, you asked the member to withdraw his comment that I was in some way connected with a terrorist. I have never defended a terrorist. I was a prosecutor. I do not know what the member is talking about. He has been asked to withdraw his comments and he has not done so. I ask that he withdraw those comments because they are defamatory and untrue.

The ACTING SPEAKER: That is quite true. I asked the member for Yokine to withdraw his remark, if the member for Nedlands did not have that direct relationship. If he is willing to take it forward, it should be done by way of a substantive motion.

Mr R.C. KUCERA: I will not take the matter further by way of a motion. I will withdraw the mention of a terrorist.

Debate Resumed

Mr R.C. KUCERA: However, I will not resile from the fact that on many occasions in this house the member for Nedlands has introduced matters about a person called Gerritsen either indirectly, snidely or by way of innuendo. Mr Gerritsen was convicted of placing a bomb in a building in Australia, something that is considered nowadays, and was even then, to be an act of terrorism. That is what I am saying.

Ms S.E. Walker interjected.

Mr R.C. KUCERA: If the member for Nedlands wishes to keep introducing that matter by way of interjection -

The ACTING SPEAKER (Mr A.P. O’Gorman): Order, members! It does not help the member for Nedlands when she continues to interject because it gives the member on his feet the opportunity to keep referring to the

same issues. I ask the member to withhold her interjections and let the member for Yokine finish the remaining three minutes of his speech.

Mr R.C. KUCERA: Thank you, Mr Acting Speaker. I will go back to my original comments. The Minister for Justice will quite properly answer the other matters raised by the member for Nedlands. I oppose the motion and the issues raised by the member for Nedlands. The one matter on which I agree with the member for Nedlands is that the de Souza family has a very good case to take before federal minister Vanstone for what occurred. There was a breakdown in the federal system of immigration, which is obviously in crisis in this state. In saying that, I do not denigrate any of the fine people I have worked with in Western Australia and in other places who work at the coalface with the refugees and immigrants who come to this nation. By the same token, we have seen a number of very highly publicised cases, including the one raised today by the member for Nedlands, in which the federal minister has dismally failed the nation and her own cabinet. I reiterate that the de Souzas have a case. I would be more than happy if the family wanted to approach me as their local member to raise the issue. I will certainly raise the issue with the appropriate minister. No doubt it has been raised again today.

Ms S.E. Walker: You have not rung them in three years.

The ACTING SPEAKER: I call to order the member for Nedlands for the first time. I have shown enough patience.

Mr R.C. KUCERA: It is very easy for the member for Nedlands to denigrate a whole system. In the case of the de Souzas, it is the federal system that has caused the problem. I encourage the de Souza family to make sure that they pursue the federal government as far as they possibly can for its absolute incompetence in this case.

The ACTING SPEAKER: The Minister for Police and Emergency Services.

Mr R.F. Johnson: It should be a member from this side who speaks next.

The ACTING SPEAKER: Member for Hillarys, I have given the minister the call.

MRS M.H. ROBERTS (Midland - Minister for Police and Emergency Services) [5.22 pm]: I am the lead speaker for the government.

Mr R.F. Johnson: What was the member for Yokine doing then?

Mrs M.H. ROBERTS: Had the member for Hillarys been in the chamber earlier he would have heard the explanation.

Several members interjected.

The ACTING SPEAKER: Order, members! The minister has barely got on her feet to speak. She is the lead speaker. I ask members to listen to the minister. When she makes a comment, members may wish to take notes and refer to them when they get the opportunity to speak. However, for the moment, the minister has the call.

Mrs M.H. ROBERTS: I am delighted to speak on the motion about the resourcing and management of law and order issues in this state. A few key points need to be made up-front about how the Gallop government approaches law and order issues and how it has resourced the Western Australian police. The fact is that the Western Australian Police Service has the highest ratio of police to population of any police service in Australia. During our previous term of government, we recruited some 250 additional police officers and 40 additional Aboriginal liaison officers over and above the attrition rate. In this term, we are committing an additional \$145 million to recruit 350 police officers and 160 additional civilian staff. Western Australia already has a ratio of approximately 249 officers to 100 000 people. That compares more than favourably with much more populous states like Victoria, which has a ratio of just 211 to 100 000; New South Wales, with a ratio of approximately 212 to 100 000; and a large state like Queensland, with a ratio of approximately 220 to 100 000. We therefore already have the highest ratio and we have made an even bigger commitment there.

Another area in which we have been enjoying a lot of success for a range of reasons is the area of crime statistics. Crime was out of control in the eight years of the previous government, particularly armed robbery, burglary and car theft offences. However, during the term of our government there has been a significant downward trend, particularly in areas of concern such as burglary and car theft offences, both of which have had magnificent reductions in their rates. There have also been dramatic improvements in the clearance rates for those crimes.

I again draw members' attention to the fact that the September quarter showed a significant reduction of some 11.5 per cent compared with the same quarter last year, and the clearance rate has improved by some 4.7 per cent. That came on top of a number of quarters of downward trends in burglary offences. Why is this so? It is because of the additional expenditure we have put into police; it is because of the Commissioner of Police's

emphasis on the Frontline First policy; it is because we have tackled issues such as burglary with the Burglar Beware campaign, which has been backed up with police resourcing and police operations; and it is also because we have invested very heavily in DNA initiatives. When we first came to government, we immediately increased the allocated money in the forward estimates from just \$1 million to \$20 million so that we would be at the forefront Australia-wide with our DNA database. That is paying significant dividends, which we have been enjoying in the past year or two through reduced crime rates.

In the September quarter there was a significant reduction again in the theft of motor vehicles. Although the figure for stolen motor vehicles was 6.3 per cent down on the same quarter last year, the cumulative figure indicates that the quarterly figure is 44.4 per cent less than the same quarter in 2000, and 54.7 per cent less than the same quarter in 1997. We have therefore reduced the amount of car theft by more than half. That is a fantastic result that has been delivered only by better management of police and better resourcing to police in the backup that they needed with technology such as DNA and other initiatives.

When we were in opposition I often said that we needed to judge the Police Service on performance and that the key area of performance was in reducing crime rates. The police, by themselves, are not the sole people responsible for reducing crime rates. We are well aware that a range of other agencies and factors can impact on crime rates. However, we must put that focus on clearance rates - clearing up crimes and catching the people responsible for them. Members will see that the results clearly relate to those improved clearance rates and that more people are being caught for the crimes they are committing.

Crime statistics in Western Australia are simply the best that they have been for years. That is not to say that we are entirely happy with those statistics. We would like to reduce even further the amount of burglary offences, car thefts, assaults and all kinds of crimes. That is what we are working on and that is why we are resourcing the Police Service even further. That is why our commissioner, in conjunction with the government, is taking a lot of significant actions in this regard. Since 2001 the Gallop government has taken a range of positive steps to target law and order and to protect vulnerable members of our community. We have turned the tide against crime over the past five years, and we will endeavour to reduce crime rates even further during the remainder of our term. The community safety and crime prevention strategy, together with a broad range of initiatives such as the front-line first strategy and increasing the number of patrol and investigation staff, continues to have a positive effect on reducing crime, particularly property crime. The strategy that we put in place in our first four years in office is now paying dividends, with offences against the person also showing a downward trend. As I have said, in the September quarter the total number of reported offences for the 2004-05 financial year was 231 387, a decrease of 5.8 per cent, or 14 320 fewer offences in 2004-05 compared with the number in 2003-04. That shows that in the area of law and order, the Gallop government is progressing in the right direction. This motion is fairly aimed at the government's performance on law and order. It specifically mentions management and resourcing issues. In my comments I will indicate how the government has put significant resources into the Police Service, and the significant benefits achieved as a result of those resources.

The Police Service has advised me that the September quarter statistics were the lowest quarterly crime statistics since mid-1996. We have really turned the tide and taken things back to a level that has not been seen in the best part of 10 years. I am very proud to announce that WA's law and order initiatives have been recognised nationally. Operation Burglary Countdown won a national crime and violence prevention award. The award and a cheque for \$10 000 was presented by the federal Minister for Justice and Customs, Senator Chris Ellison, to the staff of the Office of Crime Prevention only two weeks ago. This successful initiative is now being rolled out across the south east metropolitan area under the title "Burglar Beware" with similar successful results.

Some of the initiatives that have been put in place by the Gallop government since it came to office in 2001 include making front-line policing a major focus, and restoring patrolling as core police work. We have reviewed the administrative areas of the Police Service to get more police into the front line. I commend Commissioner Karl O'Callaghan for the work he has done in that regard. We have increased the strength of the police by an additional 250 police officers and 40 Aboriginal liaison officers. We have boosted the police budget by \$175 million, or 40 per cent. That is a huge increase in the budget when compared with the last budget of the previous government. That is well above CPI, or any other increase that might be anticipated. It clearly demonstrates the Gallop government's commitment to law and order and to resourcing our Police Service to ensure that it can do the job effectively. We have provided additional funding to increase police visibility and have targeted patrolling in high-risk areas, particularly during peak demand periods. We have provided additional resources for 24-hour metropolitan police stations to ensure that they are available to respond to the community around the clock every day of the year. We have introduced new domestic violence legislation to ensure that this high-volume crime is actually treated as a crime. As part of that, officers at sergeant level have been put into each policing district to manage this area. We have also provided for the registration of child sex offenders as a preventive measure in the ongoing management of the perpetrators of this crime, with the enactment of the Community Protection (Offender Reporting) Act in 2004. We are providing, and have

provided in some circumstances, a program to provide multi-agency policing facilities in remote locations, with a permanent policing presence at Warburton, Kalumburu, Jigalong, Balgo, the Dampier Peninsula, Bidyadanga, Warmun, Warakurna and Kintore, which is in the Northern Territory. We have resourced the establishment of a police gang response unit. We have vastly improved forensic capabilities through the introduction of DNA legislation, the establishment of a DNA database and the introduction of investigative analysis software and insight geospatial investigative analysis to support police investigations, map out and identify crime hot spots and target patrols and operations. These are some of the things that have helped us reduce the crime rate and improve our clearance rate.

We have reviewed and extensively invested in police communication and information technology capacities to improve the quality, quantity and timeliness of information exchange, including police responsiveness, investigations and prosecutions. The police assistance centre has been a great success. It was a couple of years in planning and took a while to come on line. However, since coming on line, I have received a lot of positive comments about how quickly the police answer phone calls. People are now advised to call one simple number - 131 444 - for police assistance. Those calls are appropriately logged and the most appropriate police vehicle is tasked to attend. This is a marked change from the ramshackle system that operated when members opposite were in government. Many times in this house I have argued how that old ramshackle system let people down time and again simply because they could not get through to the police. Indeed, the responses were poor. Stories abounded that the police had a system of cascading calls from the local police station to the local 24-hour police station at four o'clock. Word has it that at four o'clock officers at Cannington and some of the other major police stations turned down the ring tone on their phones because they could not cope with the volume of calls. Because all calls are now centralised, rather than being tied up responding to phone and dispatch calls, officers and staff at police stations and 24-hour centres are free to get on with front-line police work.

We have introduced 50 transit police to patrol the metropolitan rail system. That was an important innovation in the area of law and order and a significant resourcing issue. That measure has given people greater confidence when travelling on our rail system. We have also enabled the Commissioner of Police to enhance police efforts in the enforcement of liquor licensing and security industry laws for entertainment centres. We have also enacted the new move-on powers. Again, we have received very positive responses from a range of areas. Most importantly, people in the Northbridge area have welcomed the Gallop Labor government's initiative to provide police with the power to move people on. Offenders who carry unlicensed firearms, drugs or large sums of money - the tools of trade for drug dealers - will now attract a penalty of 14 years' imprisonment. We have increased the penalties for firearm offences. The penalty for people who are armed in public so as to cause terror has been increased to seven years' imprisonment. That penalty was previously two years' imprisonment. We have strengthened the Weapons Act 1999 to clamp down on the possession and carriage of machetes. The Gallop government acted quickly to strengthen the Weapons Act so that appropriate penalties could be put in place as a result of an incident in Northbridge involving machetes. We have reviewed the Security and Related Activities (Control) Act 1996 through public submissions, consultation and expert advice and adopted a suite of recommendations. I have also introduced legislation to the Parliament.

We have relocated the Perth police station from the outskirts of the city into Northbridge. That positive move is reflected in the reduced crime rate. A couple of nights ago there was a positive story on television about the reduced rate of assaults in Northbridge. We have also introduced a young people in Northbridge policy. That policy includes the somewhat controversial curfew, which is opposed by some members opposite. That policy has certainly been welcomed by the general community as a good measure to protect the lifestyle of people in our community. We introduced a \$19 million package of measures to tackle repeat offending by young people. Again, that was an Australian-first program, adopting best practice from other places in the world to deal with those young repeat offenders and to treat them intensely to see if we could break that cycle of offending, which is important. The best thing we can possibly do, especially when young people have their whole life ahead of them, is to break that cycle of offending and put them on the right path. A range of programs and services have been introduced to deal with drug and alcohol abuse. We have conducted a number of better targeted indigenous programs. Measures were taken by the WA charter on multiculturalism to deal with racial vilification. Programs were put in place, through the Department of Sport and Recreation, to deal with violence in sports. Of course, we updated the penalties for the offences defined in the Criminal Law Amendments (Simple Offences) Act in 2004.

One of the other important areas in which we have acted to protect the security and safety of people of Western Australia is in the introduction of a range of early intervention programs and programs via the early years strategy, which includes legislation for parental responsibility orders and contracts, and the creation of a parent support service in the south east metropolitan region. We have also worked with local communities and local government on safety and crime prevention plans. For the first time, we have local governments working together and putting a plan in place that best reflects the needs of their local communities. Most councils in this

state have now embraced this as a good way forward. Most of them have received substantial funding for not just the plan, but also a variety of programs that have been implemented as a result of those plans.

As for school behaviour, \$65 million was targeted through the behavioural management in schools program, which is again aimed at young people and deals with behavioural issues in schools, which of course can spill into patterns of criminal behaviour in the community. One of the more successful measures that the police have put in place is, of course, the regional operations group. We had been calling for it for years, by one name or another, when we were in opposition. I was delighted that we were able to put it in place in our first term in government, so that we would have a ready group of trained police officers to deal with what is largely antisocial behaviour. Those parties and the like that get out of control really do create havoc in the suburbs and require a strong response. That is why the regional operations group was put in place. As I referred to earlier, we also put in place the gang response unit to target outlaw motorcycle gangs and street gangs. Of course, when there is a need for either one of these groups to be deployed and further needs arise, there are also backup units, such as the trained response group, which can be brought in as well.

My colleague the member for Yokine referred to the establishment by our government of the Corruption and Crime Commission to prevent corruption in our Police Service and in the broader public sector. That followed on from the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers, which was a very important royal commission and one that was denied for many years by those who sat opposite and who chose to cover up corruption rather than have it exposed through a royal commission.

Mr R.F. Johnson: How many officers have been charged?

Mrs M.H. ROBERTS: A number of officers have been charged. We can deal with that another time. A whole range of new initiatives have been put in place in the Police Service since the royal commission. I am in no doubt now that we have a Police Service that is in much better shape than it was five years ago. That is because of the royal commission and the actions taken by the royal commissioner; it is because of the funding and resources that our government has given to Western Australia Police.

We have also introduced tough new drug laws, requiring reports to be made to police of the sale of precursor chemicals and apparatus that can be used in the manufacture of illicit drugs. When in opposition, I used to question why there were no laws in place to deal with this. The response was that a type of code of practice was sufficient. The police did operate under a kind of code of practice with those chemical distributors and the like for many years. There is a lot of difference between a code of practice and putting in place legislation that has very strong penalties for people who do not follow the law in that regard. We have also created new offences and tough penalties for the unlawful possession of precursor chemicals. We have monitored international approaches to drug law enforcement. We have also introduced effective antihoon laws, which Mr Acting Speaker (Mr A.P. O’Gorman) was very supportive of. The antihoon laws empower police to impound cars that are driven dangerously or recklessly on our roads. Police have already used this road safety weapon to impound close to 300 vehicles. It is certainly an area in which the police have been active in every police district; it is not restricted to just the metropolitan area. Country areas have certainly utilised the legislation quite effectively to deal with those who have committed hoon offences. People have seen their cars impounded. There are tougher penalties for second and third offences. An owner loses his vehicle for 48 hours in the first instance but, if he offends again, he runs the risk of having his car impounded for three months. A third offence means that he loses it altogether.

The government has worked with the business community to develop and implement strategies to tackle crime, particularly in the small business and retail sectors. The Gallop government has also expanded the child abuse unit, which is another area that the government said it would make a priority, and it did.

The government has purchased a lot of additional equipment for the Police Service over the past few years, including two mobile lock-ups, to boost police capabilities, particularly at major events. Over the next three years the government will allocate \$212 million to police capital works. The capital works program involves the construction of 20 police stations. I have already referred to those in the remote communities. In addition to them, there will be new police stations at Harvey, Derby, South Hedland, Leonora, Stirling, Ellenbrook, Wanneroo, the Town of Vincent and Canning Vale. I recently opened the new stations at Newman and Albany. The Albany station is a fantastic new complex; it is one that is very much welcomed by the community. It took the Gallop Labor government to deliver on that commitment.

We have also committed a lot to resourcing police technology. I refer to the police assistance centre. The government has invested more than \$100 million over six years in the further development of technology systems such as the DCAT system. We have finalised the implementation of the CADCOM dispatch and voice management system across telephony and radio. It enhances the dispatching and call-taking facility for the public. We are replacing the metropolitan analog radio network with an encrypted digital radio system and the

provision of limited data and automatic vehicle location information into 400 and 600 vehicles respectively by mid-2007. That is through the new police metropolitan radio network project. The project involves nearly \$59 million worth of capital expenditure. Some of the expenditure should have commenced when the other lot were in government. They left us with a Police Service that was under-resourced and that had information technology systems that were not what they should have been. The types of communication systems and the lack of response from police stations and the cascading of telephone calls caused an enormous percentage of telephone calls to the police to go unanswered. It has been a big challenge and a very expensive challenge to deliver this to the police, but it is a challenge that the Gallop government has been well and truly up to.

Following the successful Northbridge curfew, we have established an entertainment precinct unit to focus on antisocial behaviour of street violence in Northbridge and other known hotspots. We have allocated \$500 000 a year to improve and extend Aboriginal community patrols, which has been very worthwhile in reducing the amount of crime and antisocial behaviour in our community. As people will have seen recently, we are equipping our police with a whole range of new equipment, including electrostatic shoe impression lifters. We are equipping police in Northbridge with metal detectors, which we demonstrated to the public a couple of months ago. These are hand-held metal detecting units that will assist the police with detecting weapons that people may be carrying, particularly in entertainment precincts such as Northbridge. We have employed more forensic staff at PathCentre to expand the capacity for major crime referrals, volume crime referrals and intelligence referrals because we want to be able to obtain those results more quickly. We said that the police assistance centre would aim to answer calls within 30 seconds, 24 hours a day. I have not checked the response lately, but the average response last time I did check was under 20 seconds. During the initial part of that operation it was an average of 11 or 12 seconds, although I expect it is still under 20 seconds.

There has been a massive turnaround in every shape and form since those opposite were in government. When members opposite move a motion like this in connection with the management and resourcing of law and order in this state, they really have not reflected upon the immense success of the Western Australian police over the past five years and the complete turnaround that this government has achieved by better resourcing the police in terms of police numbers, Aboriginal liaison staff numbers, public service numbers and a 40 per cent overall increase in the budget for the new equipment that has been rolled out to the Police Service. Those opposite have also not focused on a whole raft of legislation, some of which I have not even referred to so far during this debate -

Mr R.C. Kucera: Some of which they have been blocking.

Mrs M.H. ROBERTS: That is right. What occurs in the upper house is quite remarkable. I understand that more than 70 bills have been passed by this house this year, yet the upper house has passed only 20-something bills. The Liberal Party really needs to get its act together. In this house when members of the Liberal Party see something is a priority, they say, "Bring it on; we will help get the law and order legislation through quickly."

Mr R.C. Kucera: And the anti-terrorism legislation.

Mrs M.H. ROBERTS: Yes. I am grateful for that, but there is not much point assisting me in this house to get legislation through when it will be blocked and checked and/or gutted in the upper house by Liberal members. That is of concern to me.

With regard to the counter-terrorism portfolio, in November 2004 a superintendent was appointed to establish a counter-terrorism unit to protect the state against a terrorist attack and coordinate the response and resolution training in line with the national counter-terrorism plan. An inspector and two senior sergeants have also been appointed to the unit. An emergency operations unit has been put in place and transferred to the counter-terrorism and state protection unit. In April 2005 we appointed an assistant commissioner to manage the counter-terrorism and state protection portfolio. We have put in place a range of initiatives within the counter-terrorism portfolio. It has involved a coordinated effort. However, that effort will be hampered if we cannot get through very basic legislation. That legislation is already in place in New South Wales, the Northern Territory and now South Australia, and it should be in place in this state. If we cannot get through the modest provisions in the bill that is currently before the upper house, I do not know what hope we will have for the legislation that John Howard has sponsored through the Council of Australian Governments, which contains provisions that are a lot more significant. If the Liberal Party is concerned about civil liberties issues and rates them more highly than counter-terrorism issues, I fear for that bill when it reaches the upper house in Western Australia. The attitude of members in the upper house seems to be entirely misplaced. Members in the upper house should be putting the priority on the community of Western Australia. Hon George Cash may not agree with all aspects of the bill that is currently before the upper house, but I am sure other people in the community would be more than happy for the Commissioner of Police to make that call. If the Commissioner of Police thinks there is an urgent need to cordon off and search an area and the people within that area because he believes a terrorist act is imminent, I think most reasonable-minded people in Western Australia would want him to go ahead and do that.

Ms Sue Walker; Mr Bob Kucera; Deputy Speaker; Acting Speaker; Mr Colin Barnett; Mrs Michelle Roberts

They would not expect an injunction to be put in place. I thought we had had a constructive debate in this place about that matter and that members in this place, including Liberal members, were satisfied that if the commissioner did exercise that power, it would be put before a Supreme Court judge within 24 hours. That provision, together with the other checks and balances in the legislation, should have been enough; however, sadly, it is not.

In protecting our state on the law and order front, the government has also committed \$10 million to the replacement of two fixed-wing aircraft. This will provide the police in Western Australia with modern aircraft, compared with the old aircraft that we inherited when we first came to government. We have also purchased metal detectors and mirrored attachments for Northbridge, as I have said.

Mr R.F. Johnson: This is just tedious repetition, to use up the time! You should be ashamed of yourself!

Mrs M.H. ROBERTS: We have also put in place a bomb trailer as part of the counter-terrorism program. We have put in place two vehicles to serve as mobile lockup facilities. We have put in place a heavy vehicle inspection trailer for use at random inspections to improve the detection of unroadworthy heavy vehicles.

Several members interjected.

The ACTING SPEAKER (Mr A.P. O’Gorman): Order, members! We have only a couple of minutes left. The minister is still speaking, and she is entitled to speak. It is not very good when someone just walks in and starts interrupting, and other members are also conferring across the chamber. I ask that members hold their comments and let the minister get to the end of her time.

Mrs M.H. ROBERTS: As I have said - members opposite do not like to hear it - when we came to government we inherited a Police Service that was too scared to look into issues of corruption, that had let crime escalate out of control, and that had facilities and communications that were second-rate. Among those second-rate facilities was the Perth watch-house. That was a complete embarrassment. We increased the police budget in the order of some 40 per cent, and we are increasing the budget each year. We cannot repair the damage and neglect of the former government overnight. However, we have put in place a decent program, and a lot of the damage has been repaired. The crime statistics are probably the best evidence of that. The Perth watch-house was an absolute disgrace. Again, that is something to which this government is committed. The relocation strategy for that central facility will include the building of a new Perth watch-house, a new Perth police centre and a new crime headquarters. That is about an \$80 million project. Again, that is evidence of the Gallop government’s phenomenal commitment to law and order in this state. No portfolio has received a higher priority for budget and resource allocations than law and order.

Debate interrupted, pursuant to standing orders.

Sitting suspended from 6.00 to 7.00 pm