Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
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LEGISLATIVE ASSEMBLY

Tuesday, 16 August 2022

Legislative Assembly

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THE SPEAKER (Mrs M.H. Roberts) took the chair at 1.00 pm, acknowledged country and read prayers.

PETER DOOLEY — TRIBUTE

Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [1.01 pm]: Members, it is with great sadness that I advise that former parliamentary education officer Peter Dooley lost his battle to cancer on Sunday. He was with his family at home when he passed away. Pete was known for his enthusiasm, booming voice and witty poetry. His energy and optimism created a theatre of entertainment that was enjoyed by all of us and so many visitors to Parliament. Aside from his family, Peter's other great loves were music, writing poetry, surfing, the Westerns Bulldogs and using his hands to create pieces of artistry and furniture from recycled material. Peter was tough throughout his illness and he would have wanted people to get on with living each day to its fullest. May he rest in peace. Our condolences to his wife, Jodi, and his girls.

Members: Hear, hear!

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

BILLS

Notice of Motion to Introduce

1. Trans-Tasman Mutual Recognition (Western Australia) Amendment Bill 2022.

Notice of motion given by **Mr D.A. Templeman (Leader of the House)** on behalf of Mr M. McGowan (Premier).

2. Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022.

Notice of motion given by **Mr D.A. Templeman (Leader of the House)** on behalf of Ms R. Saffioti (Minister for Transport).

3. Working with Children (Criminal Record Checking) Amendment Bill 2022.

Notice of motion given by **Mr D.A. Templeman (Leader of the House)** on behalf of Ms S.F. McGurk (Minister for Child Protection).

4. Duties Amendment (Farm-in Agreements) Bill 2022.

Notice of motion given by **Dr A.D. Buti (Minister for Finance)**.

5. Teacher Registration Amendment Bill 2022.

Notice of motion given by **Mr T.J. Healy (Parliamentary Secretary)**.

MINISTER FOR HOUSING — PERFORMANCE

Notice of Motion

Mr P.J. Rundle gave notice on behalf of Ms M.J. Davies (Leader of the Opposition) that at the next sitting of the house she would move —

> That this house calls on the Minister for Housing to address the raft of failures in his portfolio that have pushed Western Australia into a housing crisis.

McGOWAN GOVERNMENT — HOUSING — PERFORMANCE

Removal of Order — Statement by Speaker

THE SPEAKER (Mrs M.H. Roberts) [1.05 pm]: I inform members that in accordance with standing order 144A, the private members' business order of the day that appeared on the last notice paper as "Public Housing" has not been debated for more than 12 calendar months and has been removed from the notice paper.

NATIONAL SCIENCE WEEK

Statement by Minister for Science

MR R.H. COOK (Kwinana — Minister for Science) [1.06 pm]: It is my great pleasure to rise today and inform the house that this week is National Science Week. Held from 13 to 21 August 2022, National Science Week is Australia's largest annual celebration of science, technology, engineering and mathematics—STEM—featuring

many activities and events across Western Australia during August. This year's science week will explore the use of glass in science, in celebration of the United Nations' International Year of Glass. Given how important it is that we continue to inspire our next generation of scientists to explore the world of STEM, this year's school theme "Glass: More than meets the eye", encourages our young Western Australians to explore everything from microscopy and forensics to modern technology, communications and astronomy. In addition, the Western Australian Coordinating Committee for National Science Week held a 2022 grant round to find and fund STEM-focused initiatives across WA. Five initiatives in the Perth metropolitan area were awarded up to $10 000 from a $32 325 funding pool, and 18 initiatives across regional WA were awarded up to $2 500 from a $37 660 funding pool.

National Science Week is an Australian government initiative through Inspiring Australia. The WA government supports Inspiring Australia in Western Australia through the Department of Jobs, Tourism, Science and Innovation as well as Scitech. Most importantly, National Science Week is an opportunity for people of all ages to learn about the value of STEM in fun and engaging ways and it is a fantastic way to inspire Western Australians to be curious about the world. Our economy is underpinned by scientific literacy and STEM skills, and it is essential to foster, facilitate and encourage these skills as we look to diversify our economy and ensure that we are well placed to respond to economic, social and environmental challenges. I encourage everyone to get involved in one of the many National Science Week events happening right across the state. For more information on National Science Week events, please visit the National Science Week website.

INVESTMENT AND TRADE OFFICE — FRANKFURT, GERMANY

Statement by Minister for State Development, Jobs and Trade

MR R.H. COOK (Kwinana — Minister for State Development, Jobs and Trade) [1.08 pm]: I mentioned last week that during my European mission, I announced the establishment of a new investment and trade office in Frankfurt, Germany. As such, I thought it important to provide the house with some information about how beneficial this office will be to the diversification of the Western Australian economy. This announcement coincides with Germany and Australia celebrating 70 years of diplomatic relationships. Our close national ties have been further strengthened through bilateral agreements such as the 2021 enhanced strategic partnership and the Australia–Germany Hydrogen Accord that will bring our countries together to tackle strategic multilateral issues and accelerate the development of a hydrogen industry.

Bilateral trade between Western Australia and Germany is strong. Our trade with Germany was valued at more than $3 billion in 2020–21. This represents 17 per cent of Australia's total trade with Germany and an almost 80 per cent increase over the past decade. Last year, Western Australia exported more goods to Germany than any other Australian state or territory, accounting for 57 per cent of Australia's goods exported to Germany.

German investment also supports significant economic development in Western Australia, where we have over 50 German companies operating. These include Luerssen Australia, which is partnering with Civmec to construct 10 offshore patrol vessels; Siemens, which is partnering on the Murchison hydrogen renewables project in the midwest; and BASF, which has been instrumental in the cathode precursor production pilot plant, a critical component of the global electric vehicle value chain.

As part of the 2022–23 state budget, the government allocated funding to establish four new spoke offices in 2022–23 to strengthen Western Australia's presence in new and existing markets. Frankfurt is the ideal location for an investment and trade office in Germany. It is the financial heart of the European Union and home to the European Union's Central Bank, making it a fantastic location to leverage opportunities in industry sectors such as clean energy, batteries and critical minerals. The new Frankfurt office will start operating in early 2023 and will be initially staffed by two business development managers. Frankfurt will be the first spoke office established within the United Kingdom and Europe hub of the state's international network, and will significantly strengthen the government's ability to attract investment and grow trade opportunities within Germany and the broader European market.

INDIA AND OMAN VISIT

Statement by Minister for International Education

MR D.A. TEMPLEMAN (Mandurah — Minister for International Education) [1.11 pm]: It is with great pleasure I rise to inform the house of the Western Australian government's largest ever trade mission to India, which was last month. The Deputy Premier and I were accompanied by our colleagues the member for Jandakot, Mr Yaz Mubarakai; the member for Pilbara, Mr Kevin Michel; and the member for Riverton, Dr Jags Krishnan. We visited Delhi, Mumbai, Visakhapatnam and Chennai. Delegates from six priority sectors joined the mission, including more than 30 representatives from the state's international education sector. Throughout the mission, 24 memoranda of understanding were signed between Western Australian and Indian businesses and industry groups, 16 of these by our international education providers.

Delegates participated in a series of industry briefings, round tables, one-to-one meetings and important networking events. As an example, in Delhi, I participated in discussions on the development of skills for the mining sector, and India's national education policy. I visited Amity University where I viewed its amazing media production

facilities and launched the Joondalup Innovation Challenge. In Mumbai, the Governor of Maharashtra and I discussed our shared passion for education and witnessed the signing of a memorandum of understanding in health sciences. I met with JSW Sports while in Mumbai to discuss opportunities for collaboration in sports education and elite training. I also participated in a successful meeting with representatives from the Mumbai film industry—often referred to as Bollywood—at which we discussed Western Australia as a filming destination. I am encouraged by the feedback we received from this meeting, as well as the meeting held in Chennai with the South Indian film industry. Whilst in Vishakhapatnam, I participated in a session on education, skill development and vocational training with the government of Andhra Pradesh. Both our governments see education as a powerful tool to place in the hands of young people, and access to education benefits not only the individual, but also the community. In Chennai, the state government opened the new investment and trade office, which will provide a vital link between Western Australia and opportunities in South India.

Following meetings in Chennai with the ministers for education and higher education, I travelled with several university and vocational education delegates to Oman, where I met with the Minister of Higher Education, Scientific Research and Innovation, and attended a round table with the University of Technology and Applied Sciences. We also participated in a meeting with training provider Salikon Oman, and witnessed the signing of a memorandum of understanding between Salikon and Western Australia's Phoenix Academy.

Following the mission, I have had productive discussions with international education providers exploring the opportunities identified in the market. It was a very busy but successful 10 days in two countries full of opportunities for Western Australia. I would like to thank everyone involved in making this mission like no other. I table a copy of the itinerary.

[See paper 1339.]

NICKOL BAY SPEEDWAY — FIFTIETH ANNIVERSARY

Statement by Minister for Sport and Recreation

MR D.A. TEMPLEMAN (Mandurah — Minister for Sport and Recreation) [1.14 pm]: The fiftieth anniversary celebration of Nickol Bay Speedway in Karratha was recently held on 29 July 2022 and was a brilliant event that was well supported by the community, with over 1 500 spectators attending across the weekend. The venue at Nickol Bay Speedway has undergone a large rebuild following the damage caused by cyclone Damien in 2020, which saw the destruction of most of the track's infrastructure. Since the rebuild, though, most of the venue is now in excellent condition, with new facilities throughout.

As the Minister for Sport and Recreation, it was an honour and privilege to be part of this celebration in opening the event with a lap of honour in the track car with my very good friend the member for Pilbara. This was followed by a special three-lap drive in a production race car, driven by a talented young and upcoming local driver, Jack McAuley. That was only done by the member for Pilbara, because I —

Mr R.H. Cook: Chickened out!

Mr D.A. TEMPLEMAN: — was a little fearful! But Jack is a great young fella.

The event provided the opportunity for over 45 vehicles—how did you find out about that?—across seven divisions to be racing for top position. It was a great opportunity to speak with committee members and volunteers throughout the evening. I really want to thank the president, Stevie O'Dowd; Alan Couper; and race official Jerome for making me welcome and enabling me to be part of their fiftieth anniversary celebration—a wonderful celebration. Congratulations particularly to all the volunteers and participants of the Nickol Bay club celebrating this anniversary this year. I give a very big acknowledgement to the local member, Kevin Michel, MLA. He is a fantastic local member, who is well respected and he was a magnificent host for me during that evening.

EQUAL OPPORTUNITY ACT — LAW REFORM COMMISSION REVIEW

Statement by Attorney General

MR J.R. QUIGLEY (Butler — Attorney General) [1.16 pm]: I rise to table the Law Reform Commission of Western Australia's *Review of the Equal Opportunity Act 1984 (WA): Project 111 final report*. The Equal Opportunity Act was one of the most significant social reforms in the state's history when it was introduced by the then Labor government 38 years ago. It put WA at the forefront of anti-discrimination law in Australia. However, since that time, the community expectations regarding discrimination have progressed, and WA now lags behind most other jurisdictions. In 2019, I asked the Law Reform Commission to provide advice and recommendations to the government on possible amendments to enhance and update the act. There has been overwhelming public interest in this project and the extensive discussion paper that was published last year. In response, the Law Reform Commission received 995 written submissions, including from the education sector, and undertook seven online and in-person public consultation sessions.

The final report makes 163 recommendations. The McGowan government broadly accepts most of the recommendations and will now commence drafting a new equal opportunity act for Western Australia. The new act will bring WA

into line with other jurisdictions and ensure that this state has modern, fair and effective anti-discrimination laws that make it easier for people in the community, including individuals, employers and service providers, to read and understand their rights and obligations.

Although I will not pre-empt the final bill as it is still subject to drafting and further consideration, I can broadly commit to several key reforms, including removing the outdated "disadvantage test" for sexual harassment complainants in line with the Community Development and Justice Standing Committee's report *'Enough is enough': Sexual harassment against women in the FIFO mining industry*; strengthening equal opportunity protections for LGBTQIA+ staff and students in religious schools; providing anti-discrimination protections to those who are trans, gender diverse or non-binary without the need for recognition from the Gender Reassignment Board; extending the prohibition on sexual and racial harassment to members of Parliament and Parliament staff, judicial officers and court staff, local government councillors and staff, and unpaid or volunteer workers; protecting family and domestic violence victims from discrimination; introducing anti-vilification laws; and strengthening victimisation provisions. The new Equal Opportunity Act will achieve a balance between the rights and interests of a wide variety of Western Australians and will aim to ensure that employers are not unnecessarily burdened with complex legislation. It will streamline the operation of the Equal Opportunity Commission, which will be given broader discretion to dismiss trivial or unworthy complaints and to focus on its roles of complaint resolution and community education.

I wish to thank the people who contributed to this report, in particular the commissioners, retired Supreme Court judge, the Honourable Lindy Jenkins, chairperson of the commission; Dr Sarah Murray, an expert in public law at the University of Western Australia; and Ms Kirsten Chivers, PSM, of the State Solicitor's Office. I table the report.

[See paper 1340.]

WA FOSTER CARERS WEEK

Statement by Minister for Child Protection

MS S.F. McGURK (Fremantle — Minister for Child Protection) [1.21 pm]: I rise to acknowledge that this week is WA Foster Carers Week and update the house on the hard work and dedication of foster and family carers across the state. Foster and family carers are everyday people who step up and choose to make a difference to the lives of some of our most vulnerable children and young people when they need it most. In WA, the majority of the more than 5 000 children in care are receiving love and support through foster or family care arrangements. This occurs when children and young people are no longer able to safely stay at home. The state government is celebrating the vital role of foster carers with events and activities to recognise carers across 20 regional district offices throughout Western Australia. These events highlight the role of carers and aim to strengthen their support networks with other carers in their local area.

As part of this week, I would like to update members on the OurSPACE WA: Foster and Family Care Support Service, delivered by the Australian Childhood Foundation. OurSPACE is a free, statewide program that provides specialist therapeutic counselling and support services for Department of Communities foster and family carers. To date, OurSPACE has worked with a total of 117 carers, in person and through telephone and video calls. This easy-to-access support is helping strengthen the relationship between carers and the children they care for, in turn enhancing the long-term stability of care arrangements. I am pleased to announce that the McGowan government has provided an extra $640 000 in grant funding to extend the OurSPACE program to June 2023. I would like to take this opportunity to thank all carers for their invaluable contributions, and for opening their homes and hearts to care for children in need. I also encourage anyone who is considering fostering to get in touch with the Department of Communities, or its community partners, to find out more about this rewarding and much-needed role they can play in our community.

ADVANCE HEALTH DIRECTIVE RESOURCES

Statement by Minister for Health

MS A. SANDERSON (Morley — Minister for Health) [1.23 pm]: I rise to inform the house of the recent launch of revised advance health directive resources. Advance care planning is a voluntary process of planning for future health and personal care and includes recording values, beliefs, preferences and treatment decisions. An advance health directive is a legal document that allows people to document the treatments they consent or do not consent to receiving if they become unable to make or communicate these important decisions themselves in the future. The Joint Select Committee on End of Life Choices found that only 7.5 per cent of Western Australia's population had adequately planned the health and personal care they would like to receive. Following a recommendation from the committee, a ministerial expert panel was formed. The expert panel made eight recommendations to government on how more Western Australians could be better educated and engaged with advance care planning. This resulted in a suite of materials that are comprehensive, accessible and user friendly. The new user-friendly resources, which are available on the department's website, include advance care planning guides for consumers and health professionals; brochures, webpages and informative videos; and a guide to support people to complete their advance health directive. These materials will be promoted to the community and to health professionals via traditional and social media, community workshops and health professional education.

There are several documents that enable Western Australians to record and share their treatment preferences and decisions. These include an advance health directive, a values and preferences form and an enduring power of guardianship. I would like to acknowledge my colleague Simon Millman, MLA, the member for Mount Lawley, who chaired the expert panel. I am also pleased to inform members that work is progressing on a statewide central advance health directive register. The register will ensure that these empowering documents will be available to the people who need them, when they need them. The new advance health directive resources will benefit not only Western Australians approaching their end of life, but also anyone who wants to make their treatment decisions, values and beliefs known.

CHANGING PLACES — TOILET AND CHANGE FACILITIES

Statement by Minister for Disability Services

MR D.T. PUNCH (Bunbury — Minister for Disability Services) [1.25 pm]: I am pleased to provide the house with an update on the state government's 2021 election commitment to increase the network of Changing Places accessible toilet facilities in Western Australia. Changing Places are very important to ensure that people who cannot use a standard or accessible toilet can engage in community and economic life. They are accredited room-sized facilities that offer a ceiling hoist, a height-adjustable adult-sized change table and room for two carers to assist. They are equipped with showers and are safe, easy to use and hygienic. An additional 11 Changing Places will be built across WA thanks to the $2 million McGowan government election commitment to support their construction over the next two years. The state government is partnering with 10 organisations that will enable the construction of an additional 11 Changing Places across Western Australia by 2024. This initiative will increase our network of Changing Places to 45 facilities across the state by 2024. As they become more common, it will stimulate investment from other facility owners to build Changing Places. We are already seeing this with many of our shopping centres and larger facilities including a Changing Place in their design and construction. I am very pleased to see the network has expanded to new areas, including the south west and the Kimberley, which should encourage people with disability to travel and enjoy all parts of Western Australia.

Accessible tourism is a multibillion-dollar market across Australia. I encourage our tourism and leisure sectors to complement these initiatives and realise the economic opportunities that tourism for people with disability offers as they plan and build their facilities and services. However, more important than economics is feeling included and valued. Having spoken with people with disability who need Changing Places, I understand how important they are in people's daily life. They open opportunities to visit new places or stay longer without the concern of having to cut short their plans. I appreciate the vision of the 10 organisations involved in this initiative and their commitment to building accessible and inclusive communities.

FAIR TRADING AMENDMENT BILL 2021

First Reading

Bill read a first time, on motion by **Mr R.H. Cook (Minister for Commerce)**.

Explanatory memorandum presented by the minister.

Second Reading

MR R.H. COOK (Kwinana — Minister for Commerce) [1.29 pm]: I move —

> That the bill be now read a second time.

The Western Australian Fair Trading Amendment Bill 2021 aims to improve the operation of consumer law in Western Australia by providing a mechanism for updating the contents of the Australian Consumer Law as it applies in this state to provide for consistency with the national consumer law. The amendments will enable all businesses and consumers to better understand their rights and obligations and enjoy the full range of protections provided under the national law.

The bill will update the ACL as it applies in Western Australia to incorporate amendments made to the commonwealth legislation between 26 October 2018 and 1 June 2021. It will also reduce the lag between future amendments that are made to the ACL as it applies in all other Australian jurisdictions and those amendments that are made to the ACL as it applies in Western Australia.

The amendments that will be made by this bill were originally included in the Fair Trading Amendment Bill 2018, which was introduced into Parliament on 27 June 2018 and referred to the Standing Committee on Uniform Legislation and Statutes Review. The committee acknowledged, in its 119th report, the desirability of reducing the prospect that WA would be out of step with other jurisdictions, but found that although the proposed 2018 disallowance mechanism made an attempt at preserving the sovereignty of WA's Parliament, it fell short of this aim. To address the concerns of the committee, a new bill to provide a revised mechanism, based on the committee's report, was subsequently introduced. The remaining uncontroversial components of the Fair Trading Amendment Bill 2018, to update the content of the Australian Consumer Law as it applied in WA to reflect amendments made between January 2013 and October 2018, passed and became the Fair Trading Amendment Act 2018.

A new bill, the Fair Trading Amendment Bill 2019, with the revised disallowance mechanism, was subsequently introduced and referred to the committee on 3 April 2019. The committee tabled its 123rd report but the debate did not resume during the last term of government and the bill lapsed. The bill was subsequently reintroduced as the Fair Trading Amendment Bill 2021 and referred to the committee on 23 June 2021. On 10 August 2021, the committee tabled its 133rd report, which made three recommendations. This bill is essentially the same as the 2019 bill, with amendments that seek to achieve the intent of, although not necessarily with the identical wording, the recommendations of the committee in its 123rd report under the previous Parliament, which are supported by the government, and also in its 133rd report in the current Parliament.

I will now expand on the key reforms included in this bill. The Fair Trading Act 2010 currently applies the commonwealth Australian Consumer Law as in force at a nominated point in time as the Australian Consumer Law Western Australia. The Fair Trading Act 2010 was last updated on 26 October 2018. The result of the interaction of commonwealth and state laws is that commonwealth amendments apply directly to constitutional corporations that trade in Western Australia, which comprises around 80 per cent of traders, but not to other enterprises such as sole traders or business partnerships. Inconsistency between the commonwealth ACL and the ACL WA is confusing for traders, especially small business, and consumers.

This inconsistency presents a serious issue for enforcement. Under the intergovernmental agreement for the Australian Consumer Law, the Western Australian Commissioner for Consumer Protection is responsible for enforcement of the state's consumer law, using powers under the Fair Trading Act 2010, but only in respect of the ACL WA. The commissioner will have no statutory authority to deal with breaches of the commonwealth ACL until changes to the commonwealth ACL have been inserted into the ACL WA. This denies consumers and small businesses the benefit of having consumer laws that operate in WA, because the commissioner is powerless to address noncompliance when national consumer laws have not been incorporated into local laws.

Although updating the Fair Trading Act 2010 to incorporate a more recent version of the commonwealth ACL addresses the current inconsistencies, it does not address the ongoing issue of the significant time lag between amendments being made to the commonwealth ACL and their incorporation into the ACL WA. If we do not address this issue by supporting the proposed mechanism in this bill, the number of inconsistencies and problems with unenforceability will increase. That is because a raft of amendments recommended by the 2017 review of the ACL will likely work their way through the commonwealth Parliament over the next few years. They include strengthening the unfair contract term protections; compelling manufacturers and traders to assess the safety of a product prior to offering it for sale; strengthening consumer guarantees, especially for high-value goods that fail shortly after purchase; and ensuring that manufacturers, and not just traders, have a responsibility for the repair or replacement of defective products.

The bill seeks to replace the current ACL WA application provisions with a new application provision that provides for the timely insertion of changes to the commonwealth ACL into the ACL WA. The bill will introduce a mechanism to preserve the sovereignty of the WA Parliament, consistent with the recommendations of the uniform legislation committee. Importantly, the proposed mechanism will provide that all future amendments to the commonwealth ACL must be tabled in Parliament and may be disallowable before coming into effect in Western Australia.

The uniform legislation committee recommended in its 123rd report that the disallowance mechanism in the bill should permit the partial disallowance of commonwealth amendments. This recommendation has not been accepted by the government. Partial disallowance of amendments could give rise to issues with regard to participation by Western Australia in the national scheme The intergovernmental agreement that supports the national operation of the ACL requires participating jurisdictions to maintain consistent legislation. If the WA Parliament were to pass a disallowance motion and decided that parts of the commonwealth ACL should not be incorporated into the ACL WA, the government of the day might recommit those amendments by way of a separate amendment bill rather than the automatic adoption mechanism, or, alternatively, might choose not to adopt the particular change in WA at all. The potential risk of any inconsistency could then be managed through the process of drafting and implementing an adopting bill. In its 133rd report, the committee considered that this risk justified not including partial disallowance. In its 123rd report, the committee recommended that amendments be made to the standing orders to ensure that amendments receive effective scrutiny where required, and that disallowance motions in respect of commonwealth ACL amendments receive appropriate priority in the course of parliamentary business. Amendments have now been made to standing orders to address the recommendations of the committee.

The committee also recommended an amendment to ensure that commonwealth amendments would be referred to the Joint Standing Committee on Delegated Legislation. An alternative amendment to the bill was moved and passed in the other place that addresses the committee's recommendation but will provide more flexibility to Parliament to determine to which committee it might refer commonwealth amendments. The proposed amendment will improve the operation of the ACL WA and the administration of the Fair Trading Act 2010.

A number of amendments have been made to the commonwealth ACL since the last amendments were made in WA. Clause 5 of the bill seeks to update the Fair Trading Act 2010 to incorporate into the ACL WA amendments to the commonwealth ACL made between 26 October 2018 and 1 June 2021. This will incorporate amendments made in the following three commonwealth acts: the Treasury Laws Amendment (2020 Measures No. 6) Act 2020, to

improve protections to consumers by enabling a series of minor failures to be treated as a major failure, such as in the case of a "lemon" motor vehicle; the Competition and Consumer Amendment (Australian Consumer Law—Country of Origin Representations) Act 2020, to improve access to the "Made in Australia" logo for complementary medicines encapsulated in Australia; and the Financial Sector Reform (Hayne Royal Commission Response) Act 2020, to make minor amendments to update the Corporations Act 2001.

I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle**.

BAIL AMENDMENT BILL 2022

Second Reading

Resumed from 15 June.

MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [1.39 pm]: I rise to make a contribution to the Bail Amendment Bill 2022. I advise that I am the lead speaker for the opposition on this matter in this house, and that the opposition will not be opposing the legislation. We would like to discuss the consequences of the bill as we go through the matters at hand.

As we know, this bill was announced by the Attorney General back in June 2022 when he moved that the bill be read a second time in this house. That was not the first time that it had been spoken about. In his press release of 14 June, the Attorney General outlined that the bill would be introduced into Parliament very quickly and that the proposed reforms would ensure that child victims are at the centre of decisions around bail. That is very good, and it is good to see that the bill has been introduced.

Going back to March 2022, the shadow Attorney General, Hon Nick Goiran, who is in the other place, expressed some concerns about the length of time it had taken to bring this bill to the house. In March 2022, he asked questions of the Attorney General. At that stage, the Attorney General could give no details about when the legislation would be introduced to the house. In December 2020, Mr Quigley promised to introduce sweeping changes to the Bail Act as an ultimate priority. We have seen that the Attorney General has given precedence to other ultimate priorities over this very important matter. Straight after the election, the change to electoral distributions and electoral representation, which was not on the agenda prior to the election, were suddenly on the agenda and became matters of utmost importance. That legislation was pushed through the Parliament in very short order after a very quick process had been put in place to examine the issues. A little committee of favoured persons was put together to produce the outcomes that the government wanted in that regard.

Despite the fact that as early as December 2020 the then shadow Minister for Police; Justice, Peter Katsambanis, had been calling for the bail laws to come in, we know that nothing happened until June this year. It took quite a lengthy time for this matter, which was of such urgency, to be put on the agenda by the Attorney General.

The bill primarily will ensure that the living circumstances and safety of child victims of sexual offences are considered when an alleged offender seeks bail. Consideration must be given to the victim when a child is in a situation in which they could be considered to be at some risk if the alleged offender is granted bail.

The opposition had a briefing on this matter on 19 July. Hon Nick Goiran posed some questions about the bill at that time. Interestingly, the answers were only provided yesterday. We could say that that was in time for it to be debated in the house, but it did not give us a lot of time to take in all the information that had been provided. I will not go through all the questions that were asked by Hon Nick Goiran because some of them are very technical. As the shadow Attorney General in the other place, he will no doubt be able to explore the intricacies of the legislation much deeper and more expertly than I would seek to do in this place.

I will outline some of the more obvious matters that he asked of the Attorney General's office during the briefing. He asked about the substance of the feedback provided by each of the individual stakeholders who were consulted during the development of this bill. In response, he was told that the Department of Justice targeted consultation with a range of stakeholders on various drafts of the 2022 amendment bill. The list of stakeholders includes: the court and tribunal services division of the Department of Justice; heads of jurisdiction, being the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Chief Magistrate and the President of the Children's Court; the Magistrates Society of WA; the State Solicitor's Office; the Commissioner for Victims of Crime; the Department of the Premier and Cabinet; the Director of Public Prosecutions; the Western Australia Police Force; Legal Aid Western Australia; the Northern Territory Department of the Attorney-General and Justice, which is interesting; and the Aboriginal Legal Service of Western Australia. If the Attorney General could outline the relevance of the Northern Territory interaction, it would be interesting to know if there were some reasons for that, such as if it has particular expertise. It is not an attack; I am just asking the reason that department was consulted. One group that does not seem to be on that list of people or bodies that were consulted is the Law Society of Western Australia. I understand that it put out a briefing paper on bail matters generally in July 2020. I am wondering what interplay there might have been between that paper and what the Attorney General brought to the house in this legislation.

The briefing paper states, amongst other things —

> The following key issues were raised by stakeholders and considered during drafting:
>
> - The potential impact of amendments to bail legislation on remand numbers generally and the impact on the overrepresentation of Aboriginal people in the justice system;
> - Concerns about re-traumatisation of child victims; for example, if there was a requirement for the victim to make a formal statement or the necessitation of further reports;
> - Covering the situation where the prosecutor is made aware of a child's concerns from another party such as the child's primary guardian;
> - the Schedule 4 amendments relating to the probable method of dealing with the accused and the impact of bail support programmes on that probable sentence.

They are some of the matters that were discussed and some answers were given to those questions yesterday. Another question that was asked at that briefing related to the estimated number of matters that would likely be before a bail decision-maker that would require them to turn their mind to the mandatory considerations in the bill. The response was —

> It is important to remember that the new bail considerations, whilst mandatory if the circumstances set out at clause 3AA and 3AB apply, do not provide for an outright denial of, or a presumption against, bail being granted. Whether to grant bail will remain, in every case, a matter for the judicial or authorised officer who is exercising their jurisdiction to consider bail in accordance with the Bail Act. With that in mind, Government cannot give a definitive answer as to how many matters will fall within the criteria of clauses 3AA and 3AB.
>
> For the past three financial years, the number of cases* lodged in the Magistrates and Children's Court where the **most serious offence** in the case was a child sexual offence is …

A table sets out that in 2018–19, it was 348; in 2019–20, it was 347; and in 2020–21, it was 417, totalling 1 112 cases. The briefing goes on to say —

> This should not be taken as an indication that the considerations under clause 3AA and 3AB would have applied to the … cases … or would apply to every child sex offence case lodged in future. This is because the application of those clauses turns on the definition of 'child victim' at new clause 1A—a person against whom a relevant offence is alleged to have been committed and who is under 18 years of age **when the discretion to grant bail is to be exercised**.
>
> Data regarding the age of the victim bail is considered is not currently captured in either the Courts or WA Police Force IT systems. This means that the numbers above capture more than only those cases to which clause 3AA and 3AB would apply, should the Bill pass.

That means that we do not really know how many cases this will affect, but given there are so many throughout the year, I would imagine that there will be quite a number. Hon Nick Goiran went on to ask what modelling was undertaken and whether it would be released. The response was —

> … modelling the impact of the Bill with any certainty is not possible due to the discretionary nature of considering whether to grant an accused person bail. The granting or refusal of bail will turn on the facts in every case. In order to estimate **possible** impacts, the Department considered the following information over the past three financial years:
>
> - to consider the **impact of the new bail considerations** at clauses 3AA and 3AB: Cases lodged in the Magistrates and Children's Court where the most serious offence was a sexual offence against a child …; and
> - to consider the **impact of the amendments to section 9**: The number of adjournments to receive bail reports …

As noted in response to a question asked in the briefing, approximately 350 to 450 cases a year were lodged in the Children's or Magistrates Court over the past three financial years. For the past three financial years, there were 83 adjournments to seek bail reports under section 24 or 24A of the Bail Act in the Children's, Magistrates or District Courts, with roughly 20 to 30 a year in that period. Perhaps that is an indication of the number of cases that this bill will affect. I am not sure, but it indicates that there will be a number of situations that may involve a child at risk that the community would expect this legislation to impact.

Another question was: what is the benefit of proposed new section 9(1)(c)(ii)? The answer reads —

> Section 9(1)(c)(ii) serves to highlight to a judicial or authorised officer that they may wish to defer consideration of bail for up to 30 days to consider what, if any, conditions should be imposed on any grant of bail to protect the victim of sexual offence, where the victim is under 18 at the time bail is being considered.

> Its proposed inclusion in the Bail Act mirrors the approach taken in the *Family Violence Legislation Reform Act 2020* and seeks to highlight to bail decision makers the importance of giving particular consideration to the need to protect child victims of sexual abuse.

They are some of the answers given to the opposition at quite late notice. As I said, there are many more detailed matters that were delved into by the shadow Attorney General and we expect that he will be able to prosecute those in the other place much more fully than we are doing here.

By the way, an amendment has been foreshadowed today, so it will be interesting to hear the Attorney General explain why that has been deemed necessary at this late hour. No doubt he will be able to discuss that in his summation of the second reading debate.

I will go on to some of the matters in this legislation that are of interest to the opposition. The bill seeks to mitigate the traumatic effect that the release on bail of alleged abusers has on victims by amending the Bail Act 1982 to provide consistency in the act regarding the definition of a serious offence and expanding the definition to include sexual offences against children and a few other commonwealth offences such as various drug offences, robbery, murder, offences that might be taking place overseas and a lot of offences that involve transmission through post and electronic means. The change in definition will ensure that an accused charged with child sex offences and other offences listed in schedule 2 will not be released without bail for an initial appearance in the Magistrates Court or Children's Court. They must have their bail application considered properly. That consideration may still result in them being released on bail, but all the factors must be taken into account for that to occur.

The bill will provide for a 30-day deferral of a bail decision so that the decision-maker can consider the application. Decision-makers include authorised police officers, who might let someone go at the lock-up stage; authorised community service officers; justices of the peace; and judicial officers. Those decision-makers may consider what bail conditions should be imposed on the accused to better protect the alleged child victim of a sexual offence. However, the ability to defer a bail decision is discretionary. There are certain circumstances to do so that exist under the current act. This bill appears to expand that discretion to include any case involving a child sex offence when the alleged perpetrator is not a child. It will introduce further mandatory considerations that a bail decision-maker must take into account when considering bail. For any offence generally, regard must be given to the conduct of the accused towards the alleged victim and the family. For child sex offences specifically, regard must be given to the age of the victim and the accused, the living arrangements of the victim and the accused, the physical and emotional wellbeing of the victim and whether the alleged child victim has expressed concern about their safety and welfare if the accused is not kept in custody. As I said, these further considerations will not apply if the accused is also a child. Following the conviction of a person awaiting sentencing, the most probable method of dealing with the accused will be to deny bail in that circumstance.

As mentioned, the bill will introduce new offences in the category of serious offence, as listed in schedule 2. Many of them relate to commonwealth powers such as post and electronic messages and delivery, offences committed overseas, slavery, and drug offences such as selling a controlled plant—a crime that would appear to involve no victim as such but has been brought into this bill. The bill will have some interesting consequences. The Attorney General might explain why that particular matter has been brought in. Under the act in the past, bail may have been refused for an accused who is charged with a serious offence while already on bail or an early release order for another serious offence, unless there were exceptional reasons why they should not be kept in custody. Does expanding the list of serious offences mean that there will be a large presumption against bail that will apply to a broader category of offences, including offences without a primary victim?

Bail matters, because bail determines whether a person can return home while awaiting trial or remain in custody. Bail is allowed because we have a presumption of innocence and it can take some years before a matter reaches trial. Refusal to grant bail can have serious economic and other effects upon the accused person and they may, in the end, turn out to be absolved of the crime. Therefore, it is important that bail is considered in all circumstances. Being held in custody for that length of time will affect income, education and the ability to maintain housing. It could lead to isolation from family and friends, a loss of reputation and a whole range of other effects. It is a serious matter and I am sure that the Attorney General, who is an experienced legal operator, would know fully about that.

The risk that refusal to grant bail imposes on the rights of an individual has to be balanced with matters of community safety. The bill we are considering today deals with the safety of a particularly vulnerable group—children who have been subjected to sexual offences and serious crimes of that nature. We note that these are very important matters and that there will need to be careful consideration of this bill in consideration in detail. The general public's understanding of the importance of bail is highlighted with the current situation with Danny Hodgson, who is someone in the public's mind because of the shocking situation he has been left in. I understand that case involves a person who was out on bail at the time. The Attorney General may know better, but that is my understanding. It goes to show how important it is for community safety that these matters are taken very seriously.

I might be able to wind this up just in time for question time, so I put on the record again that the opposition will not be opposing this legislation. We look forward to the opportunity to interrogate it here at the consideration in detail stage and also in the other place, where the shadow Attorney General will no doubt subject it to the high degree of

scrutiny that it deserves. As I outlined, it affects people materially if their bail is denied unnecessarily, but, at the same time, we know the consequences that can occur for the community and especially very vulnerable members of the community if a person who is at risk to a person is given liberty and all the circumstances are not considered. I know this does not mandate any particular outcome.

Debate interrupted, pursuant to standing orders.

[Continued on page 3599.]

QUESTIONS WITHOUT NOTICE

CLIVE PALMER — LEGAL ACTION

492. Mr R.S. LOVE to the Premier:

I refer to the response the Premier provided in question time last Thursday regarding the legal costs associated with the Attorney General's second attempt at providing evidence in the defamation case between the Premier and Mr Palmer, noting the Premier advised he was awaiting legal advice. Has the Premier now received that legal advice on this matter; and, if so, will the Premier detail the full cost to Western Australian taxpayers with the Attorney General's do-over of evidence?

Mr M. McGOWAN replied:

The answer to that question is, no, I have not received any such advice. What I think I advised the house was that there was a process to be undertaken in which our lawyers, the lawyers of the state, would collate whatever the costs were that the court found Mr Palmer to be liable for, and then would work through the issues to ensure that Mr Palmer met the costs that he was responsible for. As I understand it, that process is ongoing between the lawyers in order to ensure that Mr Palmer is held accountable for what he is responsible for.

CLIVE PALMER — LEGAL ACTION

493. Mr R.S. LOVE to the Premier:

I have a supplementary question. Can the Premier guarantee that Western Australian taxpayers will not be picking up the bill for the Attorney General's do-over of evidence?

Mr M. McGOWAN replied:

You seem to be fixated on this. You seem to be Clive Palmer's lapdog; that is what the Nationals WA and Liberal Party are. This is the National Party. Clive Palmer was state director of the National Party in 1983. He ran Joh Bjelke-Petersen's campaign in 1986. He ran Joh Bjelke-Petersen's campaign for Prime Minister in 1987. He is National Party through and through. He is one of their mates, and all he tried to do was use his position to rip-off the Western Australian government by $30 billion and we stopped him. All the member does is come in here worrying about some, in the overall scheme of things, very minor expense compared with the $30 billion that this Attorney General helped save. Stop doing Clive Palmer's bidding. Stop being his lapdog. The Liberals and Nationals are in his pocket. You need to stop.

Several members interjected.

The SPEAKER: Members, even when you are wearing masks, I can still recognise who is yelling out. Some of you think you are very clever, but, no—you are very identifiable.

RAILCAR MANUFACTURING — BELLEVUE

494. Ms C.M. ROWE to the Premier:

I refer to the McGowan Labor government's efforts to diversify the state's economy and drive investment in WA's local manufacturing industry. Can the Premier please update the house on our government's efforts to bring local railcar manufacturing back to WA after the industry was shut down by the Liberal and National Parties?

Mr M. McGOWAN replied:

I thank the member for Belmont for the question. I am very proud, Madam Speaker; member for Midland, to say that local railcar manufacturing is back in Western Australia. We made a commitment in the lead-up to the 2017 election that we would bring railcar manufacturing back. The Minister for Transport has put it in place. Members might recall that the critics of it were the Liberals and Nationals who said it could not be done—and they were wrong once again.

This weekend the first of the six-car C-series rail packages rolled out of the factory in Bellevue near Midland, having completed its high-voltage testing. It will next month move out of the Bellevue railcar facility and begin testing on the lines. It comes around 30 years after the Liberals and Nationals closed railcar manufacturing in Western Australia. Over the next 12 months, it will undergo testing on the network. It will run on the Mandurah and Joondalup lines outside passenger operating hours. It will be very rigorously tested, and this level of testing has never occurred locally considering that for the last 30 years any railcars here were built outside Western Australia by the Liberal–National government.

The 246 new trains that we are building will carry more than 100 000 boardings a day. I have seen them; they are outstanding pieces of engineering quality and will be a much welcomed addition to the local network. By 2029, we will have 246 locally manufactured electric railcars, and six diesel railcars to replace those on the *Australind* service down to Bunbury. They will all be manufactured at Bellevue near Midland. It is the biggest order of railcars in Western Australian history. The cost is far less than it would be to purchase them from over east. It supports a great many Western Australian jobs and local suppliers. Members can go out to some of the engineering firms particularly around Bassendean, Bayswater and Midland, and find a lot of the train components have been manufactured there. We are also working with private industry for some of the rail carriages for mining and other sectors to be manufactured here in Western Australia.

It just shows that when you have a bit of imagination in government, when you are prepared to take on some tough issues, you can get great outcomes. That is what this government has done, this minister has done and this cabinet has done, and we will have Western Australian–made railcars running on our network very soon. Some people—the Liberals and Nationals—said it could not be done. Once again, they were wrong.

BANKSIA HILL DETENTION CENTRE — INSPECTOR OF CUSTODIAL SERVICES

495. Dr D.J. HONEY to the Minister for Corrective Services:

I refer to last week's Legislative Council hearing with the Inspector of Custodial Services, Eamon Ryan, during which he stated that following the recent inspection into Banksia Hill Detention Centre he was "very concerned for the overall operation of the facility" and said things have got significantly worse since the inspection was conducted in December 2021.

(1) Given that the resulting show-cause notice was also referred to the minister's department on 17 December 2021, and then unusually directly to the minister because of the department's unsatisfactory response —

Several members interjected.

The SPEAKER: Order, please!

Dr D.J. HONEY: — why did the minister allow things, in the words of the inspector, to grow significantly worse?

(2) Has the minister's failure to deliver this key service contributed to his loss of faith from the sector including the head of the WA Prison Officers' Union, Andy Smith, who has asked for the Premier to move the minister on from this portfolio?

The SPEAKER: Before the minister answers, that is a very extensive question. It does contain a fair bit of argument. I would ask you to reconsider the drafting of your questions into the future.

Mr W.J. JOHNSTON replied:

(1)–(2) It is an interesting question that runs over several different issues. In the very short time that I have in question time, it is very difficult to respond. The Office of the Inspector of Custodial Services is independent of government. He does not follow direction from me. I have, of course, asked him to review one particular aspect, and I have made comments in Parliament about that. But he is independent of government. He makes his own reviews and he provides information to us and he tables all his reports in Parliament. Every single thing he has said, he tables in Parliament.

When I became minister, he had just completed his regularly two-yearly or three-yearly, whatever it is, inspection of Banksia Hill Detention Centre, and that report that was tabled in Parliament last year showed that Banksia Hill was running well. That was the advice that he gave me when he briefed me when I became Minister for Corrective Services. Subsequent to that, the number of detainees at Banksia Hill has increased dramatically. I want to make the point: no-one in the corrective services function of the Department of Justice has anything to do with who comes into the care of the department. That is decided by either a magistrate or a judge, and we would have to ask the magistrates and the judges why they decided to put more people into Banksia Hill.

It was unfortunate that that huge increase from about 85 to 145 detainees was done over a short period of time and we were not able to recruit fast enough. The department ran a series of recruitment efforts, but it could not keep up with the additional people who were coming in and that led to some unsatisfactory outcomes over Christmas. I have discussed that with the department management running the detention facility. Following that, we made a concerted effort to get new youth custodial officers into Banksia Hill as quickly as possible to get the service back under control. The services for young people were not being made available to them because of the disruptive behaviour of those young people in the detention facility.

It is unfortunate that when the Liberal Party was in government it closed Rangeview, so we have only one youth detention facility now. That led to the department coming to me and asking me to approve the creation of a second youth detention facility. We did that at unit 18, because that facility is the only one that is reasonably practicably available. Perhaps the Leader of the Liberal Party can let us know in his supplementary question whether he would like us to build a youth custodial facility in his electorate. If

he wants us to have a second one, we have to put it somewhere, and his electorate would be a good spot for it. Given that the Liberal Party closed the second youth detention facility, we have put a small number of detainees into a newly declared youth custodial facility at unit 18 inside Casuarina Prison. Since then, there has been a dramatic change to the outcomes for the detainees at Banksia Hill. I have been very transparent with the media. Every time I have been asked to be interviewed, I have provided information. I would love to go on radio every day to talk about this stuff, because I would love to update the community on a regular basis, like I did last Tuesday in Parliament.

The behaviour of detainees at Banksia Hill is now much improved and the services that those young detainees need are being provided to them. The first few days were a bit tricky, but, subsequently, all the services that are programmed to be available at Banksia Hill have been made available. The only occasions when a program has not been run is when the external provider has not attended the detention facility; otherwise, all services are running as normal. Also, the number of youth detainees has fallen as people have finished their detention. So far, two of the detainees who were sent to unit 18 have been returned to Banksia Hill and one is being released to freedom in accordance with the laws of the state. We will continue to work with the staff and others to try to provide the highest level of service that we can for all youth detainees.

I will finish on this point. In the three or four weeks that the opposition has been running this silly campaign against me, it has found one person to criticise me and he is the secretary of the union that does not represent the workers who manage the youth custodial facility. The union that represents the workers at the youth custodial facility is the Community and Public Sector Union–Civil Service Association of WA, not the WA Prison Officers' Union. I understand that the government is having some difficult times with the Prison Officers' Union, because in the prisons, not in the youth custodial facility, we have a reform program that the Prison Officers' Union is finding uncomfortable. Let me make it clear: Members of the Prison Officers' Union do not manage young offenders; those offenders are managed by youth custodial officers who are represented by the CSA.

The SPEAKER: Just before you ask your supplementary question, in his response, the minister invited you to provide some further information about your opinion or what you would or would not like to see in your supplementary question. That is not appropriate. You are not at liberty to give an opinion or give him any advice; you are only able to ask a direct single question as a supplementary. But I do note that the topic is listed for the matter of public interest today, so I am confident that both you and the minister will be able to provide further information during that MPI.

BANKSIA HILL DETENTION CENTRE — INSPECTOR OF CUSTODIAL SERVICES

496. Dr D.J. HONEY to the Minister for Corrective Services:

Thank you for your guidance, Speaker.

I have a supplementary question. Why was the minister's department incapable of providing a proper response to the Inspector of Custodial Services' December report?

Mr W.J. JOHNSTON replied:

When I was an industrial officer at the union, sometimes I would make submissions in closing remarks to the bench. The other party would get up and object and say, "Submission not reflected in evidence." That is what I say about the Leader of the Liberal Party: that is a submission not reflected in evidence. The Inspector of Custodial Services is independent of government. The response provided to him by the department was adequate. Just because he does not think it is adequate does not mean it is inadequate. He is independent of government. It is his advice. It is his perspective. In the end, the Inspector of Custodial Services is not involved in any way in the operations of prisons or custodial services, because if he was, he would have a conflict of interest. He has provided commentary on the operations of the Banksia Hill facility. We are doing our best to provide the services that are needed. I emphasise again that since the small cohort of disruptive and violent young offenders was moved to unit 18, Banksia Hill, where the overwhelming majority of young offenders are housed, has been operating not without incident, but largely in accordance with its plans. It provides the level of services that are required to assist these young people to reintegrate back into society and to play a proper role.

I understand there is a small group of youth offenders who have acted up, been violent and attacked youth custodial officers. They have been very difficult to manage, which is why we moved them to unit 18. Again, I emphasise that for the overwhelming majority of young offenders, Banksia Hill is now providing the services that are required.

FORRESTFIELD–AIRPORT LINK — COMMENCEMENT

497. MR S.J. PRICE to the Minister for Transport:

I refer to the McGowan Labor government's record investment in congestion-busting, job-creating infrastructure such as Metronet.

(1) Can the minister update the house on the progress of the Forrestfield–Airport Link and outline what it will mean for people living in Perth's eastern suburbs?

(2) Can the minister update the house on other Metronet projects, including any attempts to undermine these transformational investments?

Ms R. SAFFIOTI replied:

I thank the member for Forrestfield for that question.

(1)–(2) Today, we were out there at the new airport station, and it looked absolutely spectacular. I think everyone who experiences that new train station will find that it is the best train station they have ever seen. It is incredible. I want to thank the workers who have delivered this new rail line. Today, we announced that on 9 October, the Forrestfield–Airport Link, the airport line, will be operating. There will be three new stations. High Wycombe train station will service not only those in the foothills, but also those people in the member for Kalamunda's area, and will be linked to the eastern suburbs and the eastern hills. The airport station is linked to the international airport and will also make sure that there is a seamless transition for those wanting to catch the train to the airport. The Redcliffe station is another magnificent station that will service the people of Redcliffe and Belmont and, again, will help people connect to the Qantas terminal. It is a significant project and there have been significant milestones. There have been many Metronet milestones recently, including an announcement on Sunday of the railcar manufacturing and, of course, today, the announcement of the completion of the rail line. We will now continue the driver testing. There will be a very significant community day on 9 October as the first rail line begins to operate.

We know the opposition does not like Metronet. Members of the Liberal Party and Nationals WA do not support Metronet. They do not support the workers out there who are delivering jobs across the state and across the suburbs. I always find it interesting to see what is happening on the other side. While we are busy delivering projects, what are our opposite numbers doing? I found something quite interesting in recent weeks when the opposition spokesperson for Metronet came out and did his audition for "The Clan". Do members remember that? I do not know who is worse—members of "The Clan" or those trying to audition to get into "The Clan". Hon Tjorn Sibma went out and said we should cancel all games like the Dreamtime game and the Anzac Day round.

Mr D.A. Templeman: He's very un-Australian.

Ms R. SAFFIOTI: How un-Australian!

Several members interjected.

The SPEAKER: Order, please!

Mr R.S. LOVE: Point of order —

Several members interjected.

The SPEAKER: Order, please! Can I just remind you, Deputy Premier and others, that points of order are heard in silence.

Point of Order

Mr R.S. LOVE: Madam Speaker, I seek your direction as to whether or not this response is relevant to the question that has been asked.

The SPEAKER: I think it does fit within the question that the member for Forrestfield asked, but I remind the minister that there are some constraints. She has to answer the question as it was asked, but there was a fair bit of latitude in the question.

Questions without Notice Resumed

Ms R. SAFFIOTI: We have been busy delivering projects like the Forrestfield–Airport Link and local rail manufacturing—projects that members on the other side have said are trying to revive industries from a bygone era, and that we should not be investing in railcar manufacturing. While we have been busy delivering these projects and creating new employment opportunities for Western Australians, my opposite number from the Liberal Party has been auditioning as a new member of "The Clan". For people who are meant to be respecting women in the workplace, I find it incredible that there are people who are putting in applications to enter "The Clan" by trying to get rid of the Anzac Day and Dreamtime rounds. Again, we are very, very proud of what we are delivering. As I said, when people see these new stations and experience the train ride from the High Wycombe and airport stations directly into the city, they will experience a word-class train line. I again congratulate all those who are on the job delivering this project and working extremely hard to deliver this word-class infrastructure.

MAIN ROADS — SUBCONTRACTOR PAYMENTS

498. Mr R.S. LOVE to the Minister for Transport:

My question is to the Minister for Transport.

Several members interjected.

The SPEAKER: Members! All that the Deputy Leader of the Opposition had said was, "My question is to the Minister for Transport." That is all he said, yet it elicited about a dozen responses. It is not funny and it is not acceptable.

Mr R.S. LOVE: Thank you, Madam Speaker.

I refer to the Auditor General's report of 11 August and the disturbing findings that Main Roads Western Australia has weak statutory declaration processes and had accepted incorrect or incomplete statutory declarations.

(1) Why has Main Roads been allowed to accept such low standards regarding statutory declarations?

(2) Has the minister tasked Main Roads with instigating a review of its subcontracting policies in order to ensure that it observes best practice?

Ms R. SAFFIOTI replied:

(1)–(2) Main Roads has accepted and is implementing the Auditor General's recommendations. I want to talk about the effort on transport spending. I want to give people some more facts about transport spending in this state. Last financial year, the budget allocated about $3.2 billion for asset investment. Despite all the supply chain issues, labour force issues, the pandemic and the war between Russia and Ukraine, our transport agencies delivered 98 per cent of the budgeted expenditure in asset investment. That is an incredible result. When I move around the state, I see local businesses being supported by our road spending. The former Liberal–National government outsourced all road spending in regional WA. It absolutely stripped it off local communities and now we are insourcing that work. We support local communities, local investment and local businesses and we will continue to do so. If members have any example of any subcontractor who is aggrieved, please let me know.

MAIN ROADS — SUBCONTRACTOR PAYMENTS

499. Mr R.S. LOVE to the Minister for Transport:

I have a supplementary question. Will the minister undertake to report back to the house when Main Roads has finished reviewing its subcontracting processes and outline whether it has improved those matters?

Several members interjected.

The SPEAKER: Order, please.

Ms R. SAFFIOTI replied:

Main Roads has accepted and is implementing the recommendations but, again, if the member has an example that he wants to give me, he should give it to me, rather than making these general criticisms. There is a bit of an issue between the member for Moore and Main Roads. He does not like Main Roads; I do not know why. He has not liked Main Roads for many, many years and I think it is because he thinks that he knows how to build roads better than Main Roads. He thinks he knows more than anybody else in this place. I tell you what, member for Moore: Main Roads does not like you much as a result, because all you have ever done is criticise Western Australian workers and the public sector. The way that you have treated Main Roads is to—what is the word?—denigrate it. You come in here and make claims all the time. During estimates, you made some outrageous claims about individuals and, as a result, like I said, Main Roads does not like you that much. If you keep going as you do, it will like you even less.

ABORIGINAL CULTURAL CENTRE

500. Ms S.E. WINTON to the Minister for Culture and the Arts:

I refer to the McGowan Labor government's commitment to promoting and celebrating Aboriginal culture.

(1) Can the minister update the house on the development of a world-class Aboriginal cultural centre for WA, including the preferred location for the centre?

(2) Can the minister outline to the house how this project will help to unlock economic opportunities for Aboriginal people?

Mr D.A. TEMPLEMAN replied:

Yes, yes, yes, yes! I am very happy to respond and answer the question.

The SPEAKER: And I am hoping that in your response, you might address the chair. Thank you.

Mr D.A. TEMPLEMAN: I am sure I will remember that, Madam Speaker.

The SPEAKER: And stay in your place!

Mr D.A. TEMPLEMAN: I answer as follows.

(1)–(2) As members would know, the McGowan government delivered the tremendous Boola Bardip, the new museum for Western Australia, which is a magnificent cultural icon for the state. Yesterday, with some

very special guests, we announced the site for the Aboriginal cultural centre, which, of course, is a commitment by this government to ensure that we put our First Nations people front and centre in not only our cultural institutions but also our story, and that will be the focus of the Aboriginal cultural centre. I want to congratulate the member for Wanneroo, as the task force chair, for the work she has done with the Whadjuk reference group, which comprised a group of elders, in selecting the site. The consultation has been thorough and intensive because, of course, we wanted to make sure that the site chosen for this magnificent asset is embraced. There are a number of sites, but the Aboriginal cultural centre will be built on the Terrace Road site. As the member for Wanneroo indicated in her question, the benefits of this project will be immeasurable in many respects. we want to make sure that when the Aboriginal cultural centre opens in 2028 as proposed, it will be a magnificent example and acknowledgement of our First Nations people from across the state. It will be built, of course, on Whadjuk Noongar land but will represent the tremendous diversity of Aboriginals in Western Australia. Our Aboriginal culture is the oldest living culture in the world and it will be celebrated through this cultural centre. I want to highlight to members that it will not only add to the magnificent tourism and experience assets within our city—it will very much be a centrepiece for that—but also allow us to tell the story of our First Nations people through art, education, performance, research, community and commercial activities. It will be unique.

The next part of the process is the further scoping of design, which will be a very important aspect. Many people have described it as the opportunity to be our Opera House or whatever it might be, but it will be unique to us. I think we should be very proud that the announcement yesterday highlighted the location of the site. The hard work will now continue in terms of building the funding and scoping of the design, but it is something of which all Western Australians should be very proud. It is, of course, the McGowan government that will deliver this project. There is some hard work ahead, but what a magnificent project to look forward to as the state moves towards the 2029 acknowledgement of our history. What a magnificent beacon to highlight First Nations Western Australians front and centre as part of the story of this state and the story of this nation. It is happening here in Perth, Western Australia. It is being led by this government, which is fully focused on our First Nations people, unlike, as was highlighted, sadly, by the Minister for Transport, some on the other side who want to cancel things like the Dreamtime match and the Anzac Day match. That is such a detrimental comment from those opposite. This is about reconciliation, acknowledgement and celebration. That is what we on this side of the house believe. Unfortunately, that belief is not necessarily shared by members opposite.

PUBLIC HOUSING — NUMBER

501. Mr P.J. RUNDLE to the Minister for Housing:

I refer to the minister's answer to question without notice C736, which identifies 1 909 public houses that are currently vacant.

(1) Can the minister detail how many of these properties are returning and how many are non-returning?

(2) What is the time line for those returning properties to be once again occupied?

Mr J.N. CAREY replied:

(1)–(2) I thank the member for his question. I actually relish and appreciate this question so that I can put on the public record, once and for all, the number of vacancies in the public housing system. First, I want to put on record how much we spent last year. We spent $200 million on maintenance across all programs in the last financial year, including 2 500 homes through the social housing economic recovery package. We also spent over $40 million through the SHERP and housing and homelessness investment package programs on over 500 refurbishments. I make it very clear that there is significant and ongoing investment in our social housing stock.

The second element is about vacancies. The opposition has sought to make some political gain from this, but there will always be vacancies in the social housing system. Members have to remember that we have 35 000 public houses and that at any one time there will be vacant homes; it fluctuates. The returning homes, of which there are 1 505, are returning homes for a number of different reasons. They are homes recently vacated that are waiting to be re-tenanted, homes recently vacated and awaiting minor refurbishment, homes undergoing minor or major refurbishment, and we also have spot-purchase homes that we have to refurbish before making them available to tenants. That is around 1 500, which makes sense when we consider that we have 35 000 houses in the system. The number of homes not returning is 422. These homes may be beyond repair or refurbishment. They are so substantially damaged that we cannot bring them back into the system. There are also projects like those at Beaconsfield and Subi East that are long-term renewals, and that takes time because we have to transition people out of them over a period of time, and so the houses remain vacant. Of course, there are other circumstances in which we cannot allow tenants to go back in. For example, the member would be aware that in Tambellup there was a horrific crime and the community has asked us not to re-tenant that home.

I want to say this: when we came to government at the end of the 2016–17 financial year, there were 1 982 vacant homes, which is higher than the current status. The figure goes up and down; it fluctuates. Clearly, the timing of when those 1 500 homes come back online is due to a number of factors. It depends on the location, the availability of trades and on the extent of the refurbishment. I want to be clear that despite what the opposition seems to be peddling, it is not a matter of giving the homes a lick of paint and Spakfilla. Many of these homes require significant investment and refurbishment. As the minister, I brought in a reform that said if only minor repairs were required, like Spakfilla or painting, we could get the residents in first and do those works afterward.

Lastly, as the minister I also looked at vacant properties in the Government Regional Officers' Housing system that were surplus to needs. As a result of that review, to date, 39 homes have transferred to social housing. I understand that the opposition is desperate to make political gain on this, but if it looks at the facts and clearly at the data, it will see that it is always fluctuating and that the figures were higher at the end of the term of the former government.

Visitors — Sue Pertile, Rosemary Donovan and Linda Tinning

The SPEAKER: Just before I take the supplementary, I meant to acknowledge earlier the guests of the member for Carine in the Speaker's gallery this afternoon from the Zonta Club of Perth Northern Suburbs, the club president, Sue Pertile; vice-president, Rosemary Donovan; and Linda Tinning, the chair of the public relations and communications committee. Welcome to Parliament today. You are very welcome.

PUBLIC HOUSING — NUMBER

502. Mr P.J. RUNDLE to the Minister for Housing:

I have a supplementary question. I thank the minister for that response. Can the minister clarify for me what actually happens to those 422 properties that are not returning?

Mr J.N. CAREY replied:

As I explained, they can be part of the renewal projects. For example, Subi East has vacant community or social housing that is beyond repair. It is the intention of the government to do a major new renewal that will actually deliver more social housing in the total Subiaco precinct. Where we do have voids, they can be part of the renewal programs. They may be demolished, but because they are on such a large block, we can build three units. It does not make sense if it is beyond repair and refurbishment. I want to put this on the record because it is important: what we have seen from the opposition is a complete distortion of the data on the vacancies. I read what Steve Martin said. He said —

> … we discovered there were 1 800 vacant social houses —

The SPEAKER: Sorry, member. Are you referring to the member in the other place?

Mr J.N. CAREY: Yes, Hon Steve Martin.

The SPEAKER: Excellent. That is a great improvement.

Mr J.N. CAREY: He said —

> … we discovered there were about 1,800 social houses … vacant. Now, that appears to be twice as many from a year ago. There was a media report … of about 900, so … it's doubled … and if you look at the numbers … the numbers don't lie.

However, the member got it wrong. He did not compare the same data statistics. The number of vacancies did not double. The member for Vasse said there are 1 000 rough sleepers on the streets. That is wrong. The member for Cottesloe said there were over 500 rough sleepers on the streets. Again, we need to refer to the Ruah data, which says that there are 280 rough sleepers on the streets. We do not want to see any rough sleepers, but there are clear datasets. The opposition is deliberately going out of its way to distort basic data. But it gets worse. Opposition members dropped to the lowest of the low, claiming that I am personally responsible for 100 homeless deaths—the member for Cottesloe made that claim on Twitter. This is what we are seeing from the opposition. It will use any means possible to distort data like the member for Vasse, like the upper house member, Hon Steve Martin, and like the member for Cottesloe did. It is simply getting basic facts wrong on housing and homelessness. The homelessness sector knows this: I take this responsibility absolutely seriously. We are using every lever we can to accelerate the delivery of social housing and we are making a substantial investment of $225 million in homelessness this year.

ELECTRICITY SUPPLY

503. Mr H.T. JONES to the Minister for Energy:

I refer to the McGowan Labor government's commitments to providing a safe, affordable and reliable power supply to all Western Australians. Can the minister update the house on the work underway to prevent power outages likes those that occurred over Christmas last year, and can the minister advise the house how this work will help maintain Western Power's 99.9 per cent network reliability?

Mr W.J. JOHNSTON replied:

I thank the member for the question. I know that the Christmas outages particularly impacted his constituents. I have previously apologised for the outages over Christmas, and I make it clear to people that I understand completely that it is never convenient to be without power. In a modern society, we are very dependent on electricity, and so an outage has a greater impact than it might have had 20 or 30 years ago. Of course, that larger volume of demand for electricity is one of the challenges that we have to deal with. I make it clear, too, that as demonstrated by the independent review of the Christmas outages, there was no one reason, not one cause, for outages in different locations.

Through Western Power, we are reinforcing the grid in the locations that it had those different outages. We have upgraded substations at Clarkson, Byford and Yanchep to make sure that those substations can carry greater loads. We are reinforcing the Waikiki substation, because that is an important element in the supply of power to the southern suburbs. People should understand that a substation in one location can have an impact on the network for many kilometres around; it is not just in that particular suburb. We are also installing new feeders in Mandurah, Byford, Waikiki and Henley Brook. That gives Western Power new options for feeding electricity in different pathways, because the high level of visibility Western Power has on the transmission infrastructure means that it can observe when there is an overload situation. By switching the load from one location to another, it can provide increased reliability. For areas such as Byford, where there is limited capacity to move electricity around because the population is less dense than in other areas such as the CBD, that will now give Western Power greater options to pass electricity around an individual outage and an individual location.

Is it not remarkable that even with the Christmas outages, Western Power has been able to achieve a greater than 99.9 per cent reliability for all customers in its network? Its target is 99.8 per cent reliability, so to achieve 99.9 per cent reliability is remarkable. Of course, if you are without power, no amount of average reliability will make your outage any easier, but it simply is not possible to provide 100 per cent reliable electricity. We are trying to build resilience into the network so that we can cope with these changed electricity dynamics, because this is the result of climate change. As the climate changes, demand for electricity rises, and so we continue to build a more resilient network. As the source of electricity changes, as we have increased levels of renewable energy, we also have to change the network to take account of that. We are doing both things at the same time.

CRIMINAL INJURIES COMPENSATION — DANNY HODGSON — EX GRATIA PAYMENT

504. Ms L. METTAM to the Attorney General:

I refer to the abhorrent attack on Danny Hodgson by a teenage perpetrator who had been released on bail after 23 charges across 13 separate incidents.

(1) Does the Attorney General accept that a $75 000 maximum payment in compensation for catastrophic injuries from a crime of this severity is insufficient?

(2) Will the Attorney General consider an ex gratia payment, given the catastrophic impact following the system failing this young man?

Mr J.R. QUIGLEY replied:

(1)–(2) Of course the injury and the incident were an absolute tragedy for Danny Hodgson and his family. The injuries were catastrophic. Western Australia has a criminal injuries compensation system that was introduced by a Labor government and under Labor has been raised to that level. Many people in Western Australia unfortunately become victims of crime. This government is committed to its compensation scheme. Beyond that, Danny's father wanted to make some representations to me personally, and I have agreed to meet with him, as I have with victims who have suffered at the hands of criminals before. I meet with serious ones, including people from the member's electorate.

We offer our deepest sympathy to Danny and to his family for what has happened, and I will have further discussions with Danny's father when he attends, I think, next week at my office.

CRIMINAL INJURIES COMPENSATION — DANNY HODGSON — EX GRATIA PAYMENT

505. Ms L. METTAM to the Attorney General:

I have a supplementary question. Will the Attorney General commit to reforming our criminal injuries compensation scheme for victims who have suffered catastrophic injury and loss?

Mr J.R. QUIGLEY replied:

The criminal injuries compensation scheme is one of the more generous ones in the nation. It is always under review. Unfortunately, many people in our community have been victims of crime. We do our best to expeditiously see that they are compensated. We have even put on an extra assessor to clear the backlog at the criminal injuries compensation assessment board. We remain committed, through the Commissioner for Victims of Crime, and she is liaising with the families to do all we can to support them.

NATIVE FOREST — LOGGING — TRANSITION PACKAGE

506. Ms E.J. KELSBIE to the Minister for Forestry:

I refer to the McGowan Labor government's commitment to supporting the communities of the south west as they move away from the logging of native forests. Can the minister outline to the house how the additional $30 million allocated in the state budget will help strengthen regional communities like Bridgetown, Greenbushes, Nannup and Manjimup and outline how this investment will support local regional jobs?

Mr D.J. KELLY replied:

I thank the member for the work she has put in to assist us developing the native forest transition plan.

I am very pleased to advise the house that today we announced the outline of the community and industry transition fund. That is a $30 million fund to assist businesses transitioning away from native forestry. Members will be aware that since we made the decision in September last year to end native logging, we have announced a package to assist workers affected by that decision. We have also announced a package to assist the mills and harvest and haulage contractors who are directly impacted by that decision. We announced today the third part of our transition package—that is, a $30 million fund to assist the broader community and industry in the south west to develop new opportunities as we move towards the end of logging of native forests. That $30 million fund has three components. There is a $15 million small business development and diversification program that provides grants of up to $400 000 for small businesses that were impacted by the decision but who were not direct customers of the Forest Products Commission. These secondary businesses may have relied on the native forest logging industry, but not been direct customers. They may have been furniture manufacturers or they may have been providing services to the sawmills. Small businesses that demonstrate a direct impact will be able to seek grants of up to $400 000 to either expand or pivot their businesses to enable them to continue to employ existing staff or employ additional workers in their businesses.

The second part of the fund is a $5 million community development small grants program. This fund will provide grants of up to $100 000. It could be for community groups or it could be for local governments that want to run small projects to increase the liveability or amenity of the community as we transition away from native logging.

The final component is a $10 million new industry development and attraction fund. This will provide grants of up to $2 million. This fund will require matching funds from proponents who want to establish new enterprises or significantly increase the capacity of existing businesses, particularly around Bridgetown, Greenbushes, Nannup and Manjimup. A particular focus for all these grants is that the programs should either support existing jobs or attract new employment into the industry.

Members, I am really pleased by the feedback that I am getting on this decision. A lot of people agree with us that the future economic wellbeing of the south west of Western Australia relies in large part on building on the natural assets and natural beauty of the region, and the native forests are a substantial part of that. Many businesses tell us that they are very excited about the decision that we have made to preserve our native forest and the substantial investment that we are providing to new and existing businesses that want to grow their existing business or establish new businesses. We really encourage that transition away from native logging.

I want to thank the member for Warren–Blackwood for the work that she has done, I want to thank the members of the native forest transition group who have worked on this package, and I look forward to seeing the region reap the benefits into the future.

The SPEAKER: The member for Vasse with the last question.

PARLIAMENT OF WESTERN AUSTRALIA AND MINISTERIAL OFFICES — WORKPLACE CULTURE INQUIRY

507. Ms L. METTAM to the Premier:

I refer to the recent investigation into the New South Wales Parliament culture by Elizabeth Broderick, and recent calls from former WA Labor staffers —

Several members interjected.

The SPEAKER: Order, please!

Ms L. METTAM: — for a similar review into the workplace culture —

Several members interjected.

The SPEAKER: Order, please! I do not need commentary from random government members. I will ask the member for Vasse if she would start her question again.

Ms L. METTAM: I refer to the recent investigation into the New South Wales Parliament culture by Elizabeth Broderick, and recent calls from former WA Labor staffers for a similar review into the workplace culture in electorate offices and ministers' and members' offices.

Will this government initiate an independent inquiry into the workplace culture of Parliament and ministerial offices in light of these recent revelations —

Several members interjected.

The SPEAKER: Order, please! Have you finished your question?

Ms L. METTAM: — and, if not, why not?

Mr M. McGOWAN replied:

I was here for the entirety of the last government—the entire period, from the start to the finish. We had Troy Buswell. I do not recall any inquiries by the last government; I do not recall anyone making inquiries. In fact, when the member asking the question arrived in the Parliament, she congratulated him on his service, despite everything that occurred, which puts in the shade anything that has occurred in any other Parliament, as far as I am aware. The Liberal Party had Mr Edman, Mr Chown and the other chap up there, Mr Hallett. It had the "Black Hand Gang". It has "The Clan". It has the commentary —

Several members interjected.

Point of Order

Mr R.S. LOVE: I have a point of order.

Several members interjected.

The SPEAKER: Order, please! A point of order is heard in silence.

Mr R.S. LOVE: I am not aware of any allegations that have been made against former member Redman, and I do not know why the Premier brought his name up in this house.

Several members interjected.

The SPEAKER: Order, please, members!

Several members interjected.

The SPEAKER: Members, this is a serious matter. I understood the Premier to say "Edman", not "Redman".

Mr R.S. Love: I am sorry; I misheard.

Questions without Notice Resumed

Mr M. McGOWAN: Thank you, Madam Speaker. I said "Mr Edman". I left off Mr Hayward, for the Nationals WA's information. If people have any concerns, or any individuals have concerns, there are ways in which they can make complaints, and there are numerous opportunities for them to undertake those complaints, but I do find it rich that the Liberals and Nationals, with their record, would even dare to ask this question.

Several members interjected.

The SPEAKER: Members!

PARLIAMENT OF WESTERN AUSTRALIA AND MINISTERIAL OFFICES — WORKPLACE CULTURE INQUIRY

508. Ms L. METTAM to the Premier:

I have a supplementary question.

Ms R. Saffioti interjected.

The SPEAKER: Minister for Transport, this matter does not immediately concern you.

Ms L. METTAM: Is the Premier aware of any current accusations or investigations into bullying or misconduct against current ministers?

Mr M. McGOWAN replied:

The answer to that is no, but I pose the question to the member: is Mr Buswell still a member of the Liberal Party?

Several members interjected.

The SPEAKER: Order, please!

Mr M. McGOWAN: I think it is a relevant question.

Several members interjected.

Mr M. McGOWAN: I think it is a relevant question; it is a question that should be asked of the Liberal Party. Is Mr Buswell still a member?

Ms L. Mettam: I don't know.

Mr M. McGOWAN: So the Deputy Leader and the Leader of the Liberal Party do not know?

Several members interjected.

The SPEAKER: Order, please, members!

Several members interjected.

The SPEAKER: Members, I would actually like to hear the Premier's response, but I will need to cut question time short if you are all going to interject.

Mr M. McGOWAN: Thank you, Madam Speaker. I would have thought, as the Leader of the Liberal Party, the member might actually make himself informed about whether a former Leader of the Liberal Party with the convictions that he has and the record that he has is still a member of the party. If he is still a member of the party, the Leader of the Liberal Party might want to take action on that. For the information of the member for Cottesloe, that is known as leadership.

The SPEAKER: That concludes question time.

MINISTER FOR CORRECTIVE SERVICES — PERFORMANCE

Matter of Public Interest

THE SPEAKER (Mrs M.H. Roberts) [2.56 pm]: I today received within the prescribed time a letter from the Leader of the Liberal Party in the following terms —

> Dear Speaker,
>
> **Matter of Public Interest**

Several members interjected.

The SPEAKER: Sorry, it appears that we have a number of people here who think that they should interject while the Speaker is speaking.

The letter continues —

> I give notice that I will move today as a Matter of Public Interest:
>
> *That this House calls on the Premier to reshuffle his Cabinet following calls for his Minister for Corrective Services to be 'stripped' of the portfolio following a string of failures across his watch.*

The matter appears to me to be in order, and if there are at least five members who will stand in support of the matter being discussed, and there are —

Several members interjected.

The SPEAKER: Sadly, the Leader of the House is not setting an example. Sadly, I do not think that joke is ever going to get old with you. It just means that every time it happens, we are going to waste about five minutes. Some people are enjoying it.

As you are aware, by agreement, the matter of public interest is a matter that will be debated each week, and to achieve the five members, the government has agreed to assist. That is why the Leader of the House stands.

Several members interjected.

The SPEAKER: Members, it is not supporting the motion, but supporting the motion being discussed, which I would hope that most members would.

[In compliance with standing orders, at least five members rose in their places.]

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [2.58 pm]: I move the motion.

I acknowledge the Leader of the House for supporting our opportunity to present this motion today, and for his maturity in doing so.

It is interesting to look at the portfolios that are covered by Hon Bill Johnston, Minister for Mines and Petroleum; Energy; Corrective Services; and Industrial Relations. When we look at those portfolios, they are considerable. Obviously, today we are going to move onto the topic of corrective services, but things are going the way that they should in none of those portfolios. For example, in the mines portfolio, the government website boasts as it goes through the minister's various portfolios —

> So far, his achievements include cutting red-tape for the mining industry, introducing the Work Health and Safety Bill …

He did do that, and we supported that bill as it passed through Parliament. But in relation to cutting red tape, it is fascinating to have discussions with people in the mining industry because they tell me anything but; they tell me that the approvals process has blown out considerably. People who are trying to engage in fracking projects —

Several members interjected.

Dr D.J. HONEY: I know. The government agreed that those projects would get approval under a separate arrangement, but they are not. Approvals in the Department of Mines, Industry Regulation and Safety are not moving. In fact, the mines department is struggling to get those approvals through. In the energy portfolio, we look at the failures in this state to get onto the area of hydrogen in particular, and I will go through that in a little detail. Industrial relations has obviously had a period —

A government member interjected.

Dr D.J. HONEY: We will see what comes out of all the new agreements that the state government is trying to arrange with public servants in the public sector. It is certainly a substantial workload for this minister. It is clear that corrective services is the orphan in that suite of portfolios.

As I said, I will talk a little about energy. One area in which I am especially interested and in which there have been some failures is that of renewable energy and hydrogen. That industry is gathering momentum in every other state but Western Australia. We have a couple of small projects that are nothing to do with the government, but, in large part, the hydrogen industry in particular is completely struggling to get off the ground, to the point that the largest investments in this area, from someone in this state who wanted to invest in this state, have been on the east coast of Australia because the investor could not get the support of this government. The minister, as a senior member of this government, bears part of that responsibility.

I want to focus today on the minister's inability to properly manage corrective services. It is clear to everyone that it is an area in which this minister is significantly underperforming. The minister seems to show disinterest in this portfolio. When there are public issues, all too often the minister is not present in the media dealing with those issues. Under Labor we have seen some disturbing incidents. I do not claim that the minister is responsible for all these incidents, but major riots have occurred since Labor came to power. We had the Greenough Regional Prison riot in 2018 and the Derby West Kimberley Regional Prison riot in 2020. Since this minister has come into office, we have had the Acacia Prison riot in August 2021, the Casuarina Prison riot in December 2021 and the recent riots in Banksia Hill Detention Centre, a juvenile facility. One of the common themes through all those incidents is the fact that staff are demoralised and disengaged and they feel overwhelmed in their jobs. That comes back to being the responsibility of this minister.

We have heard something from the minister on Banksia Hill, but on the previous riots, he has not come out to front the public of Western Australia and inform it about the issues or what he is doing about them. In fact, the public is left to wonder what is going on and what the priority of this government is in dealing with those matters. The riot at Casuarina Prison last December followed three previous prison riots in three years, yet the government has offered no explanation about what it is doing regarding the problems that led to those riots and those issues in that prison. As I said, we have not seen a public response. Clearly, there appears to be a major issue in the prisons in the way that those riots are dealt with and the prisoners are subsequently punished. Obviously, the minister is not responsible for the sentences that prisoners receive, but that is certainly something he can refer to his colleague the Attorney General—that is, prisoners being given a concurrent sentence for rioting. Those prisoners are effectively escaping with no punishment at all, because they simply go back to serving the time that they were going to serve. Is it any wonder that riots continue to happen in the prisons when the punishment is not adequate?

I know that the Minister for Corrective Services does not have to deal directly with sentencing for these issues, but one thing that he should be prosecuting, given that he has the responsibility of dealing with the people in prisons causing those riots, is that if prisoners, particularly those on short sentences, believed that they were going to suffer a significant penalty, maybe they would not do that again. However, we do not see the minister promoting that or any solutions to discourage prisoners from rioting in the prisons. Some money has been invested in an upgrade to house more dangerous inmates at Casuarina Prison, but we have not seen an increase in protections for staff and prison officers. Certainly one of the consistent issues that they raise is that staff and prison officers feel that they are at risk.

In question time today, I raised the matter of the Inspector of Custodial Services telling a Legislative Council committee hearing last week that following an inspection into Banksia Hill, he was very concerned for the overall operation of the facility. This is no new thing. I want to go through a little of the history of that centre. The minister came into this place and told us that the coalition government was responsible for taking that facility out. I want to put that on the record, because the minister has done this a number of times—effectively trying to blame the coalition for that facility. I will take members through a small part of that history.

If we go back some distance, the Banksia Hill Detention Centre opened in 1997 and underwent a major redevelopment from 2010 to 2012. In June 2020, only 77 juvenile detainees were held in Banksia Hill, but by April 2021, that had increased to 110 detainees with a capacity for 215. Juveniles were moved from Rangeview Remand Centre because there had been a substantial increase in capacity at the Banksia Hill Detention Centre. For the minister to say that somehow the capacity to house juveniles was caused by the closure of Rangeview is, at the least, extremely misleading. Moreover, Rangeview was not removed from custodial services, but was converted into a centre in which younger men from 18 to 28 years of age could transition into the community—the name was changed to Wandoo.

This government then removed that facility and converted it into a transition centre for women who were dealing with drug issues, in particular, and transitioning back into the community. This government said that somehow there was this enormous lack of capacity when, in fact, it inherited a well-managed system. It has been under this government that the capacity of that centre has been overwhelmed. This government has been in power for five years. If this government thought that this was an issue, we should have had more facilities by now. The minister said that he has initiated action to expand that centre and its capacity, but this is five years in —

Mr W.J. Johnston: No, it's not. It's not correct. It's not true.

Dr D.J. HONEY: The minister can correct me. He usually does. Fire away.

Mr W.J. Johnston: You are usually wrong.

Dr D.J. HONEY: Well, there you go. What I am not wrong about is that the minister has been misleading in his statements about Rangeview and the impact it had. The simple fact is that Rangeview —

Mr W.J. Johnston: It's just wrong. It's just not correct.

Dr D.J. HONEY: The simple fact is that Rangeview was closed to taking juveniles, because under the coalition government, Banksia Hill had substantially increased capacity, as I have already pointed out.

The minister likes to blame everyone else. He likes to blame the Liberal Party, and he likes to blame other people, but it is of concern. I heard the minister's answer today in question time, when he said that the report of the Inspector of Custodial Services does not have any function in the detaining, treatment or rehabilitation of prisoners and the like. That is right. However, that person is an expert to review those services. In December last year, the inspector found that Banksia Hill was not up to scratch in handling juveniles. He was so concerned by the poor response from the minister's department that he went directly to the minister. The minister just dismissed that and said he was wrong. The minister should tell us how he was wrong. That person is an expert. The minister is being far too glib by just dismissing that and saying that person was wrong.

The minister also dismissed the concerns of the WA Prison Officers' Union. The minister said that the union is just driven by the fact that it has some sort of industrial disagreement with the government. I must say that last week I was taken aback that the minister would use Parliament to attack the secretary of that union. The minister came in here and gave a longwinded account of what sounded like an internal fight between the Labor Party and the union. The minister tried to discredit and blame Mr Smith. He did not deal with the substance of the union's issues. I do not believe that prison guards and other people who belong to that union are misguided when they criticise the minister and his government. I do not believe that Mr Smith is misleading anyone when he passes on those criticisms to the minister. The minister sought to attack Mr Smith, rather than deal with the substantive concerns of the union and the conditions that prison officers have to work under. I have great respect for what the guards who work in the prison service have to do. As Mr Smith pointed out, the minister could hold an independent inquiry into those matters. However, the minister has not done that. We have not seen any transparency or independent review of these matters.

Prison officers have expressed frustration time and again that the minister appears to lack commitment to his role. It is evident from the minister's display last week in this Parliament that the union has the worst relationship with both the minister and the department of corrective services that it has ever had. That reflects the fact that prison officers are in a distressing situation. They are overworked and understaffed. The minister has not responded appropriately to that, and his department has not responded appropriately either.

Inmates at Casuarina Prison have barricaded themselves inside the prison and trashed the maximum security wing. That occurred when that area was running between 30 to 50 officers short. The conditions for prison officers are becoming more dangerous. The number of workers' compensation claims is spiking out of control. That is a direct reflection of the poor working conditions that the minister is providing for prison officers. In the two and a half years from July 2018 to December 2020, 49 per cent of prison officers made a workers' compensation claim. Those claims totalled 247 000 hours of workers' compensation leave during the 1920–21 financial year. That equates to about 120 full-time staff missing from the job. The minister should tell me how that is wrong. Those are official numbers that have come out.

I am concerned that matters in the prisons will get worse. I note that the minister has embarked upon—in fact, implemented—a long-term work health and safety recommendation to ban smoking in prisons. The minister must know that that is likely to lead to highly irritable and even aggressive behaviour of prisoners who are coming off their addiction to cigarettes. I would be intrigued if the minister in his response could explain what he has done —

Mr W.J. Johnston: Do you support it?

Dr D.J. HONEY: I want the minister to explain to me and to this place —

Mr W.J. Johnston: Do you support it?

Dr D.J. HONEY: I am not here to answer the minister's questions. I am here to ask the minister what he has done.

Mr W.J. Johnston interjected.

Point of Order

Mr R.S. LOVE: The member for Cottesloe is trying to outline his case. The minister will have his chance to make a response. I seek that you ask him to stop interjecting.

The DEPUTY SPEAKER: There is no point of order. The member can carry on.

Debate Resumed

Dr D.J. HONEY: What I want to know from this minister is what has he done to mitigate that risk. As I said, I understand the basis of what the minister is doing. However, we know that the minister already has a highly charged situation in that prison. We have an extreme issue with shortage of staff and staff being under stress and duress. The minister intends to implement a move that will dramatically increase the risk of riots and misbehaviour by prisoners. I am sure members will have seen people who have gone off cigarette smoking cold turkey. In many people, it leads to quite extreme behavioural changes. This will be manifested in a highly charged prison environment. What is the minister doing to mitigate that risk? Will there be additional staff in the prisons? Will there be medical programs and so on?

Ms S.F. McGurk interjected.

Dr D.J. HONEY: That is the job of the minister.

Ms S.F. McGurk interjected.

Dr D.J. HONEY: That is the job of the minister.

Point of Order

Mr R.S. LOVE: It is soaking up precious time for us to put our argument while ministers on that side interject. I ask that you seek to stop them from doing so.

The DEPUTY SPEAKER: Thank you, deputy leader. I will not uphold the point of order at this point in time, but if members could let the Leader of the Liberal Party finish his contribution in silence, that would be appreciated.

Debate Resumed

Dr D.J. HONEY: That is the job of the minister, but, again, what we heard when the minister bothered to respond to this, and I listened with bated breath afterwards, makes me suspect the minister has not done anything other than make the announcement. If the minister did intend to implement this in prisons, he would have additional staff, not a staff shortage. He would also have additional medical programs to support prisoners through their withdrawal from cigarette smoking. That would also be supervised by medical personnel. What has the minister done? I suspect that the minister has done nothing additional, but we will find out. This minister is simply too overwhelmed with other work to enable him to carry out his work in this portfolio properly.

MS L. METTAM (Vasse — Deputy Leader of the Liberal Party) [3.16 pm]: I rise to support this motion moved by the Leader of the Parliamentary Liberal Party, and to back up the concerns raised about the management of the corrections portfolio, in particular as it relates to the juvenile justice system under the McGowan government's watch. It is very clear that there are a number of descriptors of the management of the juvenile justice system. Denis Reynolds, our longest-serving President of the Children's Court of Western Australia and a retired judge, has described it as a broken system and a basket case, complete with facilities that, as we have heard, are not fit for purpose. Some advocates for a better system in Western Australia have described the system as unlawful. We have heard the countless stories and reports about Banksia Hill Detention Centre. Earlier this week, the Commissioner for Children and Young People, Ms McGowan-Jones, raised real concerns about the vicious cycle of the deteriorating facilities in our sole detention centre. She raised those concerns on the back of the government's decision to send juveniles to our adult prison in shackles. That was not only a failure of this government to better rehabilitate and support those in the corrections system, but obviously a capacity failure. Ms McGowan-Jones also talked about the fact that moving these inmates without addressing the staffing issues just continues a vicious cycle. The commissioner said that she was particularly concerned that the time frame for returning all the children to Banksia Hill had already been extended from one year to 18 months.

There has been damning report after damning report. In March this year, the Inspector of Custodial Services made a damning report into what can be uncovered when there is a snap inspection of the juvenile justice system at Banksia Hill. In this report, the Inspector of Custodial Services described the treatment of youth in detention in this state as cruel, inhumane and degrading. This snap inspection was triggered on the back of a number of concerns that had been raised, including the rate of self-harm in these facilities. Through questions in the other place from our shadow Minister for Corrective Services, it was revealed that from 2019 to 2021, there was a significant jump in the instances of self-harm under this government's watch—from 147 cases of self-harm to 351 cases of self-harm. It is no wonder that this government has lost the support of unions associated with the corrective services portfolio. It is no wonder they describe their relationship with the department and the minister as the worst it has been. It is because we have seen the number of assaults against staff increasing dramatically, from three assaults in 2019—these were horrific in their own right—to a staggering figure of 13 in 2021. That is a significant jump.

The Auditor's General May 2022 report referred to the dysfunction under this minister's watch. It referred to a lack of reliable information on vacancies or an awareness of how many officers are currently employed, overpayments to officers and fraud risks. The Auditor General's report painted a deeply disturbing picture—serious deficiencies in systems, processes, controls and culture; widespread acceptance of noncompliance with processes; and the inability or unwillingness of management and officers to challenge poor practices. We have heard about staff shortages, which members have referred to, but in terms of what that means on the ground for the most vulnerable, Judge Quail put it very well in a recent article in which he described the experience of a 13-year-old child at Banksia Hill. He described harsh and punitive treatment that had no rehabilitative effect. He said that the boy's detention management report, which was read in court, said he was keen to learn, had undertaken extra work in his cell while at Banksia Hill, and that his teachers reported the boy had been enthused about learning, was focused and had consistently demonstrated good behaviour. However, because of rolling lockdowns due to staff shortages in June, this boy had around 12 hours of education for the whole month of June compared with the standard of 135 hours. In the following month, he received just four hours of education. Judge Quail also referred to the self-harm that followed. National Suicide Prevention and Trauma Recovery Project director Megan Krakouer described the situation as an abomination. She asked how much longer the nightmare would go on and why Minister Johnston was managing four ministerial portfolios, as the portfolio of corrective services needs exclusive dedication.

I have more to say as this is certainly deeply concerning. I will leave my comments there, but that is certainly a question worth answering.

MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [3.25 pm]: I also want to make a contribution to the motion calling on the Premier to reshuffle his cabinet following the performance of the Minister for Corrective Services. I remind the Premier, who is here in the house, of calls that he made when he was in opposition to the then Premier, in which he attacked the then Deputy Premier and Minister for Health, who was also Minister for Tourism. At that time, he said that the time had come for the then Premier to take some action and make sure we either had a dedicated health minister or a minister who dealt with tourism. We have here a minister who is dealing with four portfolios, as outlined by the member for Vasse. It is time some attention was paid to the very important portfolio of corrective services, which is clearly not getting attention from this distracted and overworked minister.

I also note that the current Deputy Premier referred to the situation with the then health minister in December 2015, when he said that it was always "someone else's fault". We have a similar situation with this current minister—it always seems to be someone else's fault! Today we heard about the desperate situation at Banksia Hill. The minister said it was not his fault, but the fault of judges for sending people to Banksia Hill. What a ridiculous thing to say—it is the fault of the justice system that people are put in a position that they have to go there! It is the minister's responsibility to ensure they are properly catered for when they arrive.

In addition, the minister more or less intimated to the people in my electorate that the poor energy that he is providing under his other portfolio of energy is basically their fault because they are living in the midwest, or it is the weather's fault because sometimes it is hot and dry or it has rained there. Again, it is someone else's fault—it is never this minister's fault! We know from the recent shocking situation experienced by women working in fly-in fly-out that the minister has sought to throw all the fault back on the industry. He has accepted no responsibility with the departments that he heads and has oversight of—the Department of Mines and the Department of Industry and Resources, which exist to keep workers safer in those camps.

When is the minister going to take responsibility for things instead of blaming everybody else and making out that everything that happens is someone else's fault? It is the minister's fault! The buck stops with the minister in our system. The buck stops with the minister in the disaster in corrective services. The Premier needs to take note of the situation and immediately reshuffle his cabinet. He cannot go on with a minister who is at odds with the union involved and who comes in here and makes some bizarre attack on the secretary of the union in question time and starts to read out something that nobody in this house or in the public would know about. Why cannot the minister deal civilly with this union and deal with the situation he has presided over in the prison system, instead of coming into this place and launching some sort of attack upon the union? We know about the bizarre things that have been going on. We have heard about the ban on smoking. Why did the minister pick on Bandyup Women's Prison? Can the minister explain why Bandyup was chosen as the first prison to impose the ban on? What is it about that prison that makes it the target? Why is it acceptable to let criminals sit up at night watching football matches? Why is it acceptable to send takeaway food into our prison system? Why is it acceptable to give a pay rise, in percentage terms, to prisoners beyond that given to staff? Why is it acceptable for the minister to allow prisoners to produce private goods, under private commission, for people in the prison system? How is any of that acceptable? Why is the minister allowing that to continue under his watch, and why is the Premier allowing this minister to continue to fail in these many departments? Why is the Premier not taking action? Why is the Premier not reshuffling his cabinet? We know that other ministers have already expressed the view they will not make it to 2025. It is time for the Premier to reshuffle his cabinet.

MR M. McGOWAN (Rockingham — Premier) [3.30 pm]: It goes without saying that the government will not be supporting this matter of public interest. The attack that was just launched was beyond pathetic. I have been here a long time and in the annals of pathetic attacks that contribution is right up there. It was top shelf in terms of pathetic attacks by the opposition.

I want to make a few points about what the opposition said. At the end the Deputy Leader of the Opposition said that it is untenable to have a minister who is at odds with the union. That is the quote. Therefore, the new standard of the opposition is that if a minister does not get on with a union, the minister should not be able to hold that role. That is what he said. Does that mean that if and when the Liberal Party and Nationals WA get back into office in the future, as soon as a union says that it does not support a minister, then according to their new standard that minister must resign. Does anyone actually believe that? Does anyone actually think that is right—that you cannot have a disagreement with a union, or to put it more appropriately, if you have a disagreement with a union you must resign as minister? That is the new standard. It is ridiculous. It is a ridiculous thing to suggest. The Minister for Corrective Services obviously is going through a reform program, particularly for some of the leave and overtime issues that have been identified by the Auditor General. That is what is occurring. That has obviously upset some people. Rather than taking the side of the government, which is actually doing the right thing by Western Australian taxpayers, the Liberals and Nationals are taking the other side. It is quite instructive on how far the opposition has fallen to suggest such a thing. If I had said to Colin Barnett or Richard Court that the union disagrees with the minister—I was here with both of them—therefore they must resign, I would have been laughed out of this Parliament. It is a ridiculous thing to suggest.

The next argument of the opposition was about smoking. Does the opposition understand that various prisons systems across Australia have banned smoking, as have numerous venues across the country? The reason for that is a public health campaign over the last 40 years to save tens of thousands if not hundreds of thousands of lives. That is the reason this has been done on a progressive basis over the past 40 years in numerous venues across the country. I am advised that if not all, most prison systems in the eastern states have removed smoking. Why do they do that? It is to save the lives of prisoners, but more importantly to save the lives of prison guards and staff who work there so that they are not passively smoking. I would have thought that it is pretty clear why we are doing that. The union supports it because it wants to preserve the lives of its members. It is a workplace health and safety issue. We selected one prison to start with because we wanted to trial it to find out how it will work and to implement other things to do that. We selected Bandyup Women's Prison because it is a women's prison and probably the easiest to manage. Why would we not do that? The opposition is now attacking us for trying to stop smoking where staff are suffering.

Dr D.J. Honey interjected.

Mr M. McGOWAN: The member for Cottesloe is interjecting. I do not know who advises him. I really do not. He does not seem to have any judgement. His social media is appalling. The stuff he tweets is appalling. The reason he does not get any re-tweets is because everyone laughs at him. He needs better advisers.

Dr D.J. Honey interjected.

Mr M. McGOWAN: He laughs at himself.

Dr D.J. Honey interjected.

Mr M. McGOWAN: I would rather be in my position than yours.

The opposition's next argument is that the Minister for Corrective Services has too many portfolios. The minister has four portfolios: Mines and Petroleum; Energy; Corrective Services; and Industrial Relations. He is a former union official, and proudly so. He has knowledge about industrial relations. He is hardworking and knowledgeable on issues of mines and petroleum. I have every confidence that when he walks into a room with the industry, he knows what he is talking about. He knows every part of the industry and can answer any question. The energy portfolio is complex. Again, I have total confidence that this minister knows what he is talking about. He can hold his head high nationally. Look at us compared with the eastern states. Because of Alan Carpenter and the domestic gas reservation policy that he put in place in 2006, we have not had the problems they have had in the east. We are the absolute envy of the rest of the country when it comes to energy systems. At the Treasurers' meeting the other day they were in awe and asking, "How did you do that?" They have had rolling blackouts and price spikes. They have all these things.

Ms L. Mettam interjected.

Mr M. McGowan: The opposition is again objecting. In 2006, Alan Carpenter put in place a policy and this minister is the inheritor of it. Again, opposition members do not know what they are talking about.

Dr D.J. Honey interjected.

Mr M. McGOWAN: The member for Cottesloe is factually inaccurate. According to the standards that he sets, the minister should now resign.

The opposition also put the argument that the minister has too many portfolios. Let us go through that. The Leader of the Opposition is responsible for nine portfolios. The minister has four and the opposition has said that is too many. The Leader of the Opposition has nine. The Leader of the Liberal Party has seven portfolios. The Deputy Leader of the Opposition in the Legislative Council, Hon Colin de Grussa, has six. Hon Martin Aldridge has five portfolios.

The Deputy Leader of the Liberal Party has five portfolios. Hon Tjorn Sibma, the fellow who does not like Anzac Day in the AFL—he thinks that is a reason to campaign on; I do not know the view of the Leader of the Opposition on that, but he should be asked a question about it—has four portfolios. There we have it. At least half the opposition frontbench has more portfolios than this minister.

Dr D.J. Honey interjected.

Mr M. McGOWAN: Now the member for Cottesloe is laughing about his party's predicament.

Dr D.J. Honey interjected.

Mr M. McGOWAN: I am not going to take the member for Cottesloe's interjections because, as ludicrous as they are, they are kind of infuriating.

At least six shadow ministers have responsibility for as many if not more portfolios than the Minister for Corrective Services, yet the minister has staff and the resourcing of departments and so forth, and the experience to undertake the roles; whereas, opposition members do not. That was, again, just a dumb argument.

Now I turn to the issues at Banksia Hill Detention Centre. There is a group of detainees at Banksia Hill who have caused a lot of grief. The argument that the behaviour of the detainees is the fault of the Minister for Corrective Services is ludicrous. Some of those young people, because they are in Banksia, have committed some pretty bad crimes that cannot be ignored. In each case—we cannot reveal the details—there is probably a long set of offences against their names individually. Because of their behaviour, 15 to 18 young people had to be moved out of Banksia. They have disrupted it for all other detainees. There are youth custodial officers, education programs, psychiatric programs, psychological programs and everything else at Banksia to help to get those young people back on a better pathway in life, but a group of detainees was wrecking it for everyone. What did we do? In accordance with the law and because their cells were so badly damaged, we had to find somewhere else to place them. To say that that is the fault of the minister—that people behave inappropriately and badly—is a stupid argument. It is a dumb argument. To ascribe what someone has done to someone else is dumb. It does not logically follow. For the member to come in here and say that it is the minister's fault is silly.

The minister has had to deal with a difficult situation. Over time, Banksia Hill has had difficult situations, but when detainees destroy their cells, climb up to the ceiling, assault youth custodial officers and disrupt it for everyone else, we have to act. The minister had to act in accordance with what was available to him. Those offenders have been moved to another venue.

We are also, as it came down in the budget, investing another $25 million or $26 million in improvements at Banksia Hill Detention Centre for additional support staff, particularly for Aboriginal detainees. The Aboriginal services unit will provide more support and medical and mental health attention to detainees in Banksia Hill. On top of that, we announced the new Kimberley justice strategy, with on-country opportunities for young people from the Kimberley, and potentially the Pilbara, to divert them away from the justice system. These are innovative and new things that will take some time to implement. They are innovative and new things to try to make sure that we make a difference in this area. All these things have been brought in by the Minister for Corrective Services, the Attorney General and the Minister for Regional Development—a range of ministers working cooperatively to come up with solutions. That is what is happening.

But I go back to the central point. Some detainees have behaved very badly. It is a difficult issue to manage. They have no doubt had difficult lives outside of prison and are acting up inside the prison. But to suggest that somehow the behaviour of those individuals inside prison who are assaulting others and damaging property is directly attributable to the minister is just a preposterous argument. The Minister for Corrective Services is dealing with the issue, which is what we want a good minister to do. As I said to the house the other day, the thing about corrective services is that it has caused grief for every single government in Australia going back to 1788 when the British settlers arrived with a fleet full of convicts. There have always been issues, and that is something every corrective services minister will have to deal with, as they have throughout history. It will never be any different. This minister is doing a good job in dealing with these issues in difficult circumstances, and these spurious arguments deserve no attention whatsoever.

MR W.J. JOHNSTON (Cannington — Minister for Corrective Services) [3.41 pm]: I want to congratulate the opposition for finally bringing some specificity to its resolution. For the first time, it is actually telling us what it is complaining about. I will deal with corrective services, but I will first deal with a couple of other things very quickly.

The first one is what the member for Moore said about what I said about sexual harassment in workplaces. All I was referring to was the law. Since 1985, the law in Western Australia has been that employers are required to prevent sexual harassment in workplaces. I do not understand why that is a controversial comment; I do not get that. I do not understand why telling people that that is the law in Western Australia—it has been for longer than most Western Australians have been alive—is a controversial statement. I think that says more about the Liberal Party and the Nationals WA than it does about me or the state of Western Australia. Let us move on from that.

The next one deals with the energy portfolio. Of course, it is hard to provide electricity to every house on the south west interconnected system because it is a very, very large system, and if there is a mechanical failure on any point in the electricity system, there is an outage. The idea that Western Australia's electricity system is not modern and world-leading shows how the shadow Minister for Energy never talks to people in the energy industry. We have some of the cheapest electricity, for both residential and business users, anywhere in the world. The shadow Minister for Energy talked about the hydrogen industry. The people who talk to the government of Western Australia about their expectations from hydrogen investment, including green steel in Western Australia, exceeds that proposed for the rest of Australia combined. The idea that we are behind the game simply reflects the fact that the shadow Minister for Energy does not know what he is talking about. As I keep saying, when the Leader of the Liberal Party changes, I hope that the shadow Minister for Energy changes, because that would be in the interests of the Liberal Party, the Labor Party and the state of WA because we cannot have an uninformed person in that job, which is what we have got at the moment.

Let us talk about the issues that have been raised in corrective services. One of the members quoted from the Auditor General's report without having understood what it was saying. I will read part of the Auditor General's overview on page 2. It states —

> I am encouraged by some of the recent determined tangible efforts by the Director General, new Commissioner and new minister in tackling these issues. My Office will maintain a keen watch for improvements.

The Auditor General is saying, "Look at all these disastrous situations inside the administration of the prisons. Thank God we've got a minister who's finally addressing them." Let us look at why the WA Prison Officers' Union would be upset with me. I refer to the Auditor General's report, which found —

> A consistent failure to follow processes has become accepted practice which has developed an entrenched culture of noncompliance among staff at all levels. This has resulted in overpayments to officers and increases the risk of fraud.

That is what I am stopping! Now tell me, why is it that the union leadership might have a problem with me? I am also stopping this —

> A culture of complacency has developed whereby prison officers fail to account for their leave or absence in a timely manner …

I have not personally introduced measures, but I have directed the department, because it administers the agency, to bring in a digital rostering system so that we can eliminate this fraud and other problems that are taking place. The report also noted —

> Prison officers being absent from a shift without accessing leave or arranging a shift swap. This provides access to unlimited, un-managed days off and creates overtime for officers to backfill the absence.

That is what I am stopping! I ask members of the Liberal Party and the Nationals why it is they think that the WA Prison Officers' Union might not be happy with my stewardship of the agency. Do they think it is because I am reducing the opportunity for a small cohort of officers to be paid for work that they have not done? That is the exact thing that the Auditor General —

Dr D.J. Honey interjected.

Mr W.J. JOHNSTON: The Auditor General asked us to crack down on these things and that is exactly what I am doing. I make it clear that this involves a small cohort, not the majority of officers. The majority of officers are hardworking and dedicated to their work. A small element has caused a problem and there has also been a breakdown in culture. One of the things I have said to the superintendents is, "You should run your own prison. Don't rely on others to tell you how to do it. Run your own prison." But, of course, that means they have to be responsible for budget outcomes. In the past, when they needed more money, they went to central office and asked for more. I am the first minister to get the corrective services element of the department to run to its budget. Of course some people are going to be upset.

Members opposite have said that we should not ban smoking in prisons.

Dr D.J. Honey interjected.

Mr W.J. JOHNSTON: That is exactly what you said. Guess what? The union supports us. That is one thing on which the union agrees with us. Why are we starting the ban at Bandyup? It is because it is the women's prison and we want to test the impact on the prisoners, as well as on staff, to make sure that we can manage it in a calm way.

Members opposite talked about the Acacia Prison riot. Acacia Prison is run by Serco, not the government of Western Australia. We do not manage that prison; it is a private prison. We pay for it, but we do not run it. We do not choose the staffing levels. We set standards to which Serco has to comply. Guess what? The riot was a breach of the standards that we require and we are abating the contract right now. Serco is protesting the abatement and asking us to not do that. It is also asking us to pay for the damage that it allowed at the prison. That is what it is doing.

Mr R.H. Cook: Who privatised it?

Mr W.J. JOHNSTON: The Liberal Party privatised it. Quite frankly, we will have to review whether we can bring it back in-house at the end of its contract because I think we will get a better outcome. As I keep saying to members opposite, I am not able to control the management of that prison. It is run by Serco under a contract that the former Liberal–National government introduced. Why do members not go and read it and then come back and tell me why I cannot control what happens at Acacia. The former Liberal–National government gave that prison to Serco and said that letting the private sector do what it wants is better than having the government run a prison. How ridiculous!

Let us go on. The member for Cottesloe talked about concurrent sentencing as if somehow or other the decision of a judge has anything to do with the Minister for Corrective Services. Member, I would really love it if people learnt about the Westminster system and the separation of powers before they came to this place. I cannot tell a judge what to do—it is up to them.

The member talked about prisoners watching television. The prisoners who were in the newspaper were at the minimum-security prison. They are supposed to be managing themselves and getting ready to go back into society. That is the purpose of the minimum-security prison. They cook their own food and they go to work each day inside the prison grounds, but not inside the prison fence. They manage their own affairs. The irony is that if they were in the maximum-security prison, they would have had a TV in their cell. The people at the prison farms are not locked in their room; there is no lock on the door. They can come and go out of the rooms. Many of the prison farms do not have ablution facilities in the cells. If at two o'clock in the morning they need to go to the toilet, they leave the room and go down the corridor to the toilet. It is a prison farm, and the prison farms have been in place for 50 years. The idea is that this is somehow shock-horror. I understand that a juicy story was given to a journalist at *The West Australian* by the secretary of the WA Prison Officers' Union. That is fair enough. He is in dispute with me because I am trying to get control of the costs and the overtime in the prison. The prison officers' union raised a very important health and safety issue. The number one reason that a prison officer claims workers' compensation is from being injured by a prisoner, and we have to deal with that. The union is raising very important issues and we are looking at how we can deal with them.

The number of workers' compensation claims is falling, not rising. When I came in as minister, there was a long duration of workers' comp claims. I have talked about this previously. Anyone involved in workers' comp knows that long duration claims are everybody's enemy. They cost too much and are not in the interests of the individual worker. We want to bring those matters to a conclusion, and anyone who has ever done anything in workers' comp knows that. I think there were 140 claims of more than seven years' duration when I became the minister, and I directed the department and the Insurance Commission of Western Australia to settle those claims as quickly as possible to bring them to a resolution. It is ridiculous that they were allowed to continue for that long.

Let us now turn to Banksia Hill Detention Centre. The member for Vasse talked about the youth detainees being moved in shackles. In 2013, when the Liberal Party was in power and Banksia Hill was destroyed by the inmates, every single detainee at Banksia Hill was moved to the maximum-security Hakea Prison, and guess what? They were all moved in shackles. Whenever a detainee is moved outside the detention facility, they are moved in shackles. The prison service is not a pretty place. It is a very difficult place to manage. We have to make sure that the community and the staff have a risk-management strategy in place, and that is why the detainees are shackled. It is not a pretty idea, but that is what occurs. I remind members that the Office of the Inspector of Custodial Services report into Banksia Hill, which was tabled in April 2021, a month after I became minister, talked about how well Banksia Hill was running. I understand the department did a subsequent report in December to change the narrative, but that was the narrative that the inspector had created for me and that is what I responded to, so when I became minister, I did not pay the careful attention that I did to other aspects in the service because the Inspector of Custodial Services had told me in writing in the report that Banksia Hill was running calmly.

Yes, there was a growth in the detainee population and things did not go to plan, and that is why I got the department to do two things: firstly, a new model for care; and, secondly, to deal with these disruptive detainees. The problem is that there was no second facility. We could not move them back to Rangeview Remand Centre because the Liberal Party had closed Rangeview. It had concrete poured into the toilets so that they could not be used ever again. There was only one youth custodial facility until I declared unit 18 to be a youth custodial facility, and when I did that, it allowed us to move that disruptive cohort into that other facility. If we had detention facilities like we did before the Liberal Party was in government, we would have been able to balance the arrangement. It was never a question of capacity. We did not move the cohort to unit 18 because of the capacity at Banksia Hill. There are 216 beds at Banksia Hill and it has never been more than half full. That is not the issue. The issue was that there was nowhere for them to go, and every time they ticked off, the place had to be closed down and that resulted in the negative outcomes that the member for Vasse talked about. We have moved the difficult cohort to a different facility so that we can provide the care that is required. The prison service is a very difficult area to operate.

I am proud of the fact that Western Australia's mining sector is still rated the number one jurisdiction in the world. Everybody I talk to in the mining industry says that the reason Western Australia is getting a higher level of investment than any other state is that it is well regulated. Western Australia's energy sector is managed far better

than any other state and most other parts of the world. Find me anyone in the union movement who does not say what a great job we have done in industrial relations and work health and safety legislation. Yes, the prison service is difficult to manage. I am pleased that the Premier trusts me to be given such a complicated portfolio and I am glad that I work with dedicated prison officers and other people to manage the service to try to get things done.

MR D.A.E. SCAIFE (Cockburn) [3.55 pm]: We have to think that there is some irony in the opposition bringing a motion complaining about the minister having too many portfolios when we found out that former Prime Minister Scott Morrison had five portfolios that no-one even knew about, yet we are hearing a complaint today that the Minister for Corrective Services has four portfolios. It is just absurd and underlines the problem with this opposition, which is that it is not a serious opposition. We see this week in and week out in the contribution opposition members make to debates and bills and on and matters of public interest. The opposition's problem is that it is not serious. It is not taken seriously and it does not talk about issue in a serious way. This is a minister who takes very seriously his responsibilities in a very difficult portfolio. He appreciates how serious and complex the issues are and also the history of the challenges and of the reforms in our corrective services sector. That is demonstrated by looking at a few articles. I found a few on WAtoday. One is headlined "Banksia Hill a 'tinderbox' before teen prison riot". That is from 7 August 2013, members of the opposition, when Joe Francis, the former member for Jandakot, was the Minister for Corrective Services. Another headline on 28 August 2013 is "Angry Banksia Hill prison guards want apology". Do members know what the article says? It says —

> Those words angered the Community and Public Sector Union so much a stop work meeting was called on Wednesday afternoon, with members demanding Mr Francis be removed.

It is history repeating itself because there are challenges in the corrective services portfolio. There always are. We are dealing with people, and in this case young people and children, who have incredibly complex behavioural issues and are there, as the Premier said—it cannot be ignored—because they committed crimes. What I think distinguishes this corrective services minister's performance from that of Hon Joe Francis was that although in this case the minister pointed to issues with overtime and processes within some of those prison services, he said that it is only a problem because of a minority of people. Do members know what Mr Francis said? He said that half of the prison officers were not turning up to work. That is what he had to say. That is right out of the Liberal and National Party playbook, which is to attack hardworking public servants. They do not actually go to the issue. This is classic stuff right here. Saying that half the staff would not turn up to work is not a reasonable proposition to put. That is not a considered understanding of the issues. It is just classic stuff out of the Liberal and National Party playbook, which is to attack half the public servants working in the corrective services portfolio. It is an is absurd position to take, whereas we have a minister who is constructively and sensibly addressing the issues that have been identified with the administration of overtime, yet this opposition comes in here and criticises him for it and calls for his resignation. It is an absolutely laughable performance. If opposition members want to be taken seriously by the public, they need to come in here and present serious arguments. So far they have failed to do that. I do not hold out hope that they will change their tune any time soon. I will tell members what: the people of Western Australia deserve better from the opposition. They deserve a serious opposition. They will not get one, but I hope that over the next couple of terms the opposition will do better.

Division

Question put and a division taken, the Deputy Speaker casting his vote with the noes, with the following result —

Ayes (4)

Dr D.J. Honey	Mr R.S. Love	Ms L. Mettam	Mr P.J. Rundle *(Teller)*

Noes (44)

Mr S.N. Aubrey	Ms K.E. Giddens	Ms S.F. McGurk	Ms A. Sanderson
Mr G. Baker	Ms E.L. Hamilton	Mr D.R. Michael	Mr D.A.E. Scaife
Ms H.M. Beazley	Ms M.J. Hammat	Mr S.A. Millman	Ms J.J. Shaw
Dr A.D. Buti	Mr T.J. Healy	Mr Y. Mubarakai	Ms R.S. Stephens
Mr J.N. Carey	Mr M. Hughes	Ms L.A. Munday	Mrs J.M.C. Stojkovski
Mrs R.M.J. Clarke	Mr W.J. Johnston	Mrs L.M. O'Malley	Mr C.J. Tallentire
Ms C.M. Collins	Mr D.J. Kelly	Mr P. Papalia	Mr D.A. Templeman
Mr R.H. Cook	Ms E.J. Kelsbie	Mr S.J. Price	Ms C.M. Tonkin
Ms L. Dalton	Ms A.E. Kent	Mr D.T. Punch	Mr R.R. Whitby
Ms D.G. D'Anna	Dr J. Krishnan	Mr J.R. Quigley	Ms S.E. Winton
Mr M.J. Folkard	Mr P. Lilburne	Ms M.M. Quirk	Ms C.M. Rowe *(Teller)*

Pair

Ms M.J. Davies	Mr P.C. Tinley

Question thus negatived.

BAIL AMENDMENT BILL 2022

Second Reading

Resumed from an earlier stage of the sitting.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [4.06 pm]: I am trying to make eye contact with the member for Moore, who valiantly continued his contribution until right on question time, so I was just ensuring that he concluded his remarks before seeking the call. It seems as though that is the case.

I rise to make a contribution to the debate on the Bail Amendment Bill 2022 and in so doing, I want to start by laying out in clear and unequivocal terms that the very foundation of our justice system is the presumption of innocence. This is a very important doctrine that has been a key feature of the law of Australia, before that the law of the United Kingdom, for literally hundreds and hundreds of years. Considerations about the way in which it operates need to be framed in the context of the role of the presumption of innocence. The doctrine of the presumption of innocence is supported by the idea of habeas corpus, a legal concept that members here will be well familiar with. I raised this previously, but to inform my contribution to the debate, I want to take members to the idea of habeas corpus and refer to *Butterworths Concise Australian Legal Dictionary,* second edition, general editors, Hon Dr Peter Nygh and Peter Butt, BA, LLM(Hons)(Syd). The definition of habeas corpus contained in the Butterworths legal dictionary is this —

> *Lat*—have the body. Originally a type of writ issued by a superior court allowing a prisoner to have himself or herself removed from prison and be brought before the court to have the matter for which he or she was being detained determined. This type of proceeding became the method by which the Supreme Court could review decisions of justices or magistrates refusing bail or imposing excessive bail:

The citation that the authors of the dictionary refer to is The Crown v Rochford; ex parte Harvey, a 1967 decision, 15FLR 140. The doctrine of habeas corpus has been present in the commonwealth system right the way back to the Magna Carta in 1215 in the Kingdom of England, through to the United Kingdom and then on through into Australian law. That is our starting off point.

The next thing we need to have consideration for is the legislation we are amending by virtue of this amendment bill, and that is the Bail Act. Western Australia has not always had a bail act. These amendments to this Bail Act are to strengthen the responsiveness of the safe bail system to victims of alleged child sexual abuse. I touch on one of the main motivating factors for the amendment. In dealing with this particular category of victim, we need to look at things such as historical sex abuse, and family and domestic violence. I will talk a little later in my contribution about what this government has done to assist victims of historical sex abuse and what this government has done to tackle family and domestic violence.

I want to take members to the twenty-third report in the Australian Institute of Criminology's research and public policy series, published by David Bamford in 1999. The reason I refer to this report is that it not only provides a good overview of how bail operates in Australia, but also focuses particularly on a study of bail practices in Victoria, South Australia and Western Australia. I refer to page 11, paragraph 2.3.2 where the author says —

> Bail and remand in custody issues have attracted the attention of a wide range of observers in the criminal justice system. While many of the unsatisfactory aspects of the law relating to bail were recognised by the middle of the twentieth century, it is only in the last thirty years that there has been a concerted effort to study and to alter the law. Most of the literature has resulted in, or from, attempts by governments to reform the law of bail. The mix of common law and statutory provisions has led to a complex legal situation with apparent inconsistency in application. Both the United States and the United Kingdom began significant bail law reform in the 1960s leading to legislative amendment with the *Bail Reform Acts* 1966 and 1984 in the United States and to the *Criminal Justice Act* 1967 and the *Bail Act* 1976 in England.

The author says —

> The pattern has been similar in Australia, with inquiries into the state of the law of bail in the 1970s and 1980s leading to legislative reform.

The foundation on which some of those inquiries was conducted is well established. I refer to section 3.2 of "Part 3: Review of the Australian bail legislation" from the same report, *Factors affecting remand in custody: A study of bail practices in Victoria, South Australia and Western Australia*. At that time, the author summarised the position in Western Australia thus —

> The defendant has a right to have their case considered as soon as it is practicable. There is no real statement as to when bail is available; instead, the *Bail Act* lists those situations where it is not.

Then, at section 3.2.1, "Presumption against bail and its significance", it states —

> Statutory presumptions against bail for certain offences exist in New South Wales, the Northern Territory, and Victoria. The Western Australian parliament is currently considering a similar measure.

This is in 1999 —

> In the main, there is a presumption against the granting of bail where the accused is charged with a serious drug-related offence, —

The paper refers to the relevant statutory provisions at that point —

> where there is a history or threat of domestic violence, and in cases of murder …

That is the basis on which the Bail Act provided for presumptions against the grant of bail. I jumped ahead of myself so I could finish the quotes from that particular report, *Factors affecting remand in custody: A study of bail practices in Victoria, South Australia and Western Australia*.

After reading that report, I thought to mention the moves in the 1960s and 1970s across those commonwealth jurisdictions, like Australia, the United States and the United Kingdom, to give structure and cohesion to the various laws relating to bail.

I would like to refer next to some excellent work that was done by the Law Reform Commission of Western Australia in the late 1970s, *Project no 64: Bail*. In its implementation report it states —

> **Terms of Reference**
>
> In 1976 the Commission was asked, as a matter of priority, to review the law and procedure relating to bail.
>
> …
>
> At the time of the reference the law governing the grant of bail was contained in 117 provisions of 14 different statutes and regulations. The diversity of legislation led to the undesirable situation where doubts about irregularities, omissions and ambiguities in the law existed.

After a great deal of research and some significant consultation, which included a lot of stakeholders, advertising in *The West Australian* and so on, the commission distributed a working paper in November 1977. The working paper analysed the existing law, and the paper attracted comments from a wide range of individuals and groups, including government departments, judicial officers, the Law Society of Western Australia, probation and parole services, the Royal Association of Justices of Western Australia and the Council for Civil Liberties in Western Australia. The commission submitted its final report in March 1979. The commission made a number of recommendations, and the one that I want to focus on for the purposes of today is the recommendation that states —

- All unconvicted defendants should have a qualified right to bail. Certain provisions should limit this right. These provisions ranged from the likelihood of certain behaviour whilst on bail to the requirement of further information about the defendant.
- Bail conditions should be reasonable, specified and relevant.

I was just quoting from the project summary of *Project no 64: Bail*.

Delving a little bit more deeply into that Law Reform Commission report, it provides a useful summary of the circumstances pertaining at the time that the review request was made. It says in the introduction —

> There is a proliferation of bail legislation in this State. The law is to be found in no less than 117 separate provisions in fourteen different statutes, dating from 1679 to the present day, and there are also fourteen relevant regulations in the *Criminal Practice Rules* … There is no single source of authority either for the power to grant bail, or as to the relevant principles on which the bail decision should be made.

Then, I jump forward a little bit —

> Against this background, the case for a single, rational and comprehensive enactment dealing with bail and its associated procedures appears to be unanswerable.

The recommendation was that the Parliament introduce specific bail legislation. One of the things it says is —

> In chapters 1 to 8 of this Report, the Commission makes recommendations as to the content of such separate bail legislation. The essential matters covered are —
>
> (a) clarification of the authority to grant bail;
>
> (b) creation of a qualified right to bail for all offences;
>
> (c) clarification of the grounds for refusing bail;
>
> (d) establishment of procedures to enable relevant information to be made available to —
>
> (i) bail-decision-makers;
>
> (ii) defendants;

Relevantly, for the purposes of our debate on this bill —

> (e) clarification of the conditions upon which bail may be granted;

Right at the outset, when the state of Western Australia was looking to codify and simplify the law relating to bail in one unified bail act, it was clear that the academics, experts and practitioners who advised and provided evidence to the Law Reform Commission were of the view that there could be circumstances in which conditions could be imposed on bail. This idea is extrapolated further in the Law Reform Commission report in chapter 3, entitled "A qualified right to bail" —

> In some circumstances the legislation in Western Australia provides that a defendant shall be granted bail. In other cases the defendant is merely entitled to apply for bail and the bail-decision-maker is empowered to grant it.

Paragraph 3.2 of chapter 3 states —

> In the Commission's view there are at least three unsatisfactory features of this existing law and practice. They are —
>
> (a) the cases where the legislation provides that bail shall be granted rest on arbitrary and seemingly irrational distinctions, unnecessarily limit the discretion of a bail-decision-maker and create situations in which a defendant is unduly favoured;
>
> (b) in cases where the legislation provides that bail may be granted, there could be a tendency for some bail-decision-makers to regard bail as a privilege for which a defendant must apply and, despite existing practice, a defendant could be remanded in custody simply because the question of bail is never raised;
>
> (c) although guidelines as to the initial approach which should be adopted by a bail-decision-maker when considering a bail decision have been laid down, they are difficult to locate, and in some circumstances they conflict, which makes a consistent uniform approach by bail-decision-makers difficult to achieve.

This is problematic, obviously, because we want consistency in the application of the law. Having identified the problems, the commission then moved on to make its recommendation in paragraph 3.3 —

> In the Commission's view, proposed bail legislation for Western Australia should make it quite clear that bail is neither a privilege, nor necessarily a matter requiring some form of application by a defendant. It has been suggested to the Commission that bail-decision-makers should have a discretion … to grant or refuse bail … In most other jurisdictions … a defendant is given what is referred to as a statutory right to bail. Recognition of such a right appears to have been based on the presumption of innocence which underlies all criminal proceedings. The legislation giving effect to this right provides that bail shall be granted unless the bail-decision-maker is satisfied that it should be refused on one or more of several grounds specified in the legislation.

Paragraph 3.7 of chapter 3 reads —

> In summary, therefore, the Commission recommends that a defendant in Western Australia should have a qualified right to bail at all stages of the criminal justice procedure prior to conviction. This, in effect, would mean that a bail-decision-maker, on each occasion when an unconvicted defendant appeared before him, —

Sic, "or her" —

> would be required to —
>
> …
>
> (c) grant bail, with conditions if necessary, unless he —

That is, or she —

> is satisfied that, notwithstanding such conditions as he might impose, bail should be refused on one or more of the specified grounds.

I want to jump forward to the conclusion of the report and the recommendations. Chapter 10 provides a summary of the recommendations. The first recommendations states —

> A separate Bail Act should be enacted to deal in a comprehensive way with bail and its associated procedures at all stages of criminal proceedings.

Under "A Qualified Right to Bail", recommendation 5 states —

> Whether or not a formal application for bail is made, an unconvicted defendant should be granted bail, subject to a bail-decision-maker's discretion to refuse bail if he is satisfied that, having regard to the conditions that he could impose, there remains —

Then the authors of the report list a number of concerns they have, which I will summarise as general concerns for public safety or in the public interest.

Right from the outset, when this legislation was originally enacted by the Parliament of Western Australia, it was always contemplated that there would be circumstances in which bail would not operate as an automatic right. There was a movement in the 1960s and 1970s across a number of common law jurisdictions towards codifying and simplifying the way in which the law had evolved over hundreds of years in relation to bail. Then, as happens in most responsible jurisdictions at the behest of activist governments with a clear eye on making sure that the balance is right in the criminal procedure system and in the criminal justice system, a couple of jurisdictions undertook a review of these new acts from over the last two or three decades. They were in Victoria in the early 2000s and federally during the Rudd–Gillard years between 2007 and 2013.

I refer members next to the final report summary, called the plain English summary, of the Victorian Law Reform Commission's *Review of the Bail Act*. For members who are interested in looking at it, this report was tabled in the Victorian Parliament on 10 October 2007. The reason I refer members to this report is that I have just introduced into my contribution the idea of balance. Victims of crime are one of the things we need to balance when we are looking at how the law of bail operates. This report touches importantly on the question of delivering justice for victims. I quote —

> Victims of crime are not routinely told what has happened in a bail hearing. Some victims … do not want to be told what has happened, but people who are victims of violent crimes or know the acccused usually do want to know.

The authors of the report from the Victorian Law Reform Commission continue, with reference made to Victoria —

> We believe Victoria Police, the Office of Public Prosecutions and the Victims Support Agency should develop a process so victims of "crimes against the person" are told as soon as possible about the result of a bail hearing.
>
> It is also important that victims be told of any bail conditions which are designed to protect them so they can report accused people if they breach the condition.
>
> The current Act says decision makers should consider the victims' attitudes to bail, but decision makers told us what is actually important is the victims' safety and welfare.

I want to emphasise that point: what is actually important for bail decision-makers is a victim's safety and welfare. The report continues —

> The new Bail Act should include victims' safety and welfare in the decision about whether an accused person is an unacceptable risk.

That was the Victorian Law Reform Commission's review of the Bail Act.

[Member's time extended.]

Mr S.A. MILLMAN: Next, I turn to the question of family and domestic violence. One of the very important considerations in this legislation is the protection of vulnerable communities. The Australian Law Reform Commission produced a report headed *Family violence—A national legal response*. Chapter 10 of that report deals specifically with bail. It provided a good summary. The report was tabled in November 2010, so during the Rudd–Gillard years. I quote —

> 10.3 Bail is a decision on the liberty or otherwise of the accused, between the time of arrest and verdict. Bail is, in theory, 'process-oriented', aiming to ensure that the accused reappears in court either to face charges or be sentenced.

That fundamental proposition comes from a very important instrument that is germane to the law of the commonwealth and of Western Australia. It is the International Covenant on Civil and Political Rights. The report continues —

> 10.4 The *International Covenant on Civil and Political Rights* … to which Australia is a signatory, states that:
>
> > *it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial*.
>
> 10.5 The purpose of refusing bail is to protect the community and to reduce the likelihood of further offending, and should not be used to punish or coerce the accused into a course of action. A person who is on bail before trial has not been convicted of an offence, and this accords with the principle of the presumption of innocence.

The authority for the proposition that it should not be used to punish or coerce is R v Greenham [1940] VLR 239 and R v Mahoney-Smith [1967] 2 NSWR 158. That was in the introductory paragraph. The authors of the report then go more deeply into the bail presumptions and summarise some of the evidence that was presented to them. I quote —

> A person arrested for an offence related to family violence may be released on bail, either by the police or the court. This could be dangerous for a victim of family violence. Special bail laws have been enacted that might 'tend to counteract the prevalent civil libertarian bias and reverse the onus in general bail legislation towards releasing an arrested person on bail'.

At the time this report was tabled in 2010, the authors noted —

> There are no provisions in the *Bail Act 1980* (Qld) that cater specifically for family violence cases. The *Bail Act 1982* (WA) restricts the jurisdiction to grant bail in respect of breaches of protection orders in urban areas.

It continues —

> In the Consultation Paper, the Commissions asked whether in practice the application of provisions that contain a presumption against bail, or displace the presumption in favour of bail, in family violence cases, struck the right balance between ensuring the safety and wellbeing of victims, and safeguarding the rights of accused persons.

Some of the arguments that were outlined are —

> 10.20 Some stakeholders said they supported a presumption against bail for family violence offences. For example, the Domestic Violence Prevention Council (ACT) considered that this provided better protection for victims:
>
> > *There are too many circumstances where the rights of the accused person have been favoured above those of the victims and the safety of the victims has been compromised.*
> >
> > ...
>
> 10.21 Women's Legal Service Victoria commented that safety concerns were especially important in a family violence context.
>
> …
>
> 10.22 The Wirringa Baiya Aboriginal Women's Legal Centre —

It is the main Aboriginal women's legal centre in New South Wales —

> also supported a presumption against bail and commented in particular on the implications for Indigenous women:
>
> > *While there is a justifiable concern in the Aboriginal community about the numbers of Aboriginal people in custody, we speak to many Aboriginal women who are upset about offenders of family violence being given bail.*

A couple of arguments were raised against the presumption and I want to refer to one because it makes the point about the important place that the presumption of innocence holds in civil society. I quote —

> The Law Society of NSW was opposed to the erosion of the presumptions in favour of bail, which it said 'usually follows an horrific case and is often more a politically charged reaction to public opinion than a carefully considered response'.

That is not what we have here and explains why this legislation was so thoughtfully considered by the Attorney General. The commission went on to say there should not be a blanket rule. It said removing the presumption in favour is warranted in certain specific circumstances. I quote —

> The Commissions make no specific recommendation about what those circumstances should be, but suggest that they would include, for example, where an accused has been violent against the victim in the past—as is the case in NSW.

Clearly, despite the ruling that there should not be a blanket presumption, the commissioners of the Australian Law Reform Commission felt it was appropriate to have circumstances in which the right could be constrained.

Why is this government well-placed to introduce this change to the Bail Act? It has an incredible track record on the things that this bill touches upon. I want to break them down into three categories—alleged perpetrators of violent or terrorist acts, family and domestic violence, and representing the rights and interests of victims of child sex abuse. When it comes to tackling family and domestic violence, we have for the first time ever a Minister for Prevention of Family and Domestic Violence. We introduced the Family Court Amendment Bills, the Family Violence Legislation Reform (COVID-19 Response) Bill 2020, the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 and the Domestic Violence Orders (National Recognition) Bill 2017. Time and time again, during both the fortieth Parliament and forty-first Parliament, the McGowan Labor government has introduced the necessary legislation to elevate and tackle family and domestic violence. This is a government that consistently strikes the right balance with people who pose a threat to the community. The Terrorism (Preventative Detention) Amendment Bill 2016 and the Bail Amendment (Persons Linked to Terrorism) Bill 2018 are two exemplars of the way the legislative arm of government has been used to ensure that the right balance has been struck.

As I said at the start, this particular amendment bill focuses on the question of victims of child sex abuse. This government, the McGowan government, and this Attorney General are the same people who are responsible for signing us up to the National Redress Scheme for institutional child sex abuse. More importantly, when regard is

had to the article on the ABC news website this morning about what allegedly transpired at Christian Brothers College Fremantle, this government introduced the Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Bill 2017. I have spoken about both of those in the past; I do not need to go back over old ground. But with the legislative track record of this Attorney General and the McGowan Labor government when it comes to tackling family and domestic violence and striking the right balance for people who constitute a clear and present threat to the safety of the community while giving justice to victims of child sex abuse, we have runs on the board. Our track record puts us in exactly the right position to introduce this legislation.

That is all by way of introduction and now I am going to turn specifically to the bill, in the time that remains. I refer to the Attorney General's second reading speech. He stated —

> Some in the community have called for a mandatory denial of bail for adults accused of sexual offences against children.

As I said right at the outset, the very foundation of our justice system is the presumption of innocence. He continued —

> The Bail Act operates in general to preserve this principle, while allowing the bail decision-maker to consider the risks should an accused person be released. A presumption against or mandatory denial of bail is an extraordinary step with wideranging ramifications …

That is not where we are going. The Attorney General continued —

> In drafting this bill, the government has had to balance these principles with the desire to improve protections for child victims …
>
> …
>
> … the bill will give extensive guidance to bail decision-makers when considering bail. Those considerations include having regard to the conduct of the accused towards the alleged victim … extending this consideration to the conduct of the accused towards victims and family members of victims of offences they have been convicted of in the past …
>
> …
>
> New clause 3AA in the bill provides that in turning their minds to the question of whether an accused will endanger the safety, welfare or property of any person if not kept in custody, where the offence is a sexual offence against a child victim, a bail decision-maker must have regard to the following matters: the age of the child victim; the age of the accused; whether the child victim is in a family relationship with the accused … the child victim's living arrangements …

And so on and so forth. Bail decision-makers are still empowered to make the decision, but the guidance is provided explicitly in the statutory instrument. The second reading speech continues —

> Additionally, the bill will introduce an express provision for elevating the voices of child victims, where they have raised concerns for their safety and welfare if the accused is not kept in custody.

In relation to new clause 3AB, the speech outlines —

> … a family member or police officer investigating the offence informs the prosecutor that the victim has expressed a concern about their safety and welfare if the accused is not kept in custody, the prosecutor must inform the bail decision-maker of that concern and the reasons for it … The bail decision-maker must have regard to that information …

On Thursday, 11 August, when we were debating the Casino Legislation Amendment (Burswood Casino) Bill 2022, I spoke about the pillars of a free and democratic society—an elected Parliament, an independent judiciary, and a free and inquiring media. For today's purposes, I will add to that list the protection against arbitrary detention. I will also add free speech. Soon after I made that contribution last week, on 11 August, I was shocked and saddened to hear that acclaimed author Salman Rushdie was punched, stabbed and attacked on stage before a lecture in New York. He was on a ventilator. One of the witnesses at the event in New York said —

> "The news is not good," … "Salman will likely lose one eye; the nerves in his arm were severed; and his liver was stabbed and damaged."
>
> Stunned attendees helped wrest the man from Rushdie, who had fallen to the floor.

I raise this because free speech is so important in our society. I want to thank one of my constituents who emailed me. He said —

> I am writing specifically in relation to the recent attack on Salman Rushdie in New York State. I am sure you are as outraged as many around the world. Over the last 30 years many institutions and countries—western and non-western, Islamic and non-Islamic—have publicly voiced their support for Salman Rushdie. In addition to being one of the most important artists of our generation, Salman Rushdie has been a tireless supporter of free-speech, antiracism, and socially progressive causes …

When I think about the important pillars of a free and democratic society such as those I have enunciated during the course of my contribution today, I say to my constituent and other constituents in the seat of Mount Lawley who are concerned about the attack on free speech that the physical attack on Salman Rushdie represents, I stand with you; I stand in support of the pillars of a free and democratic society, and against these violent attacks on freedom of speech and the symbols of freedom of speech.

With that, I commend the Attorney General for this outstanding piece of legislation and I commend the bill to the house.

MR D.A.E. SCAIFE (Cockburn) [4.36 pm]: I rise today to make a contribution on the Bail Amendment Bill 2022. I say at the outset that it is always a pleasure to follow the member for Mount Lawley. As I have said before, I have followed the member for Mount Lawley around for a number of years now. I followed him to Slater and Gordon, then to Eureka Lawyers and then into this place. Now, I am following him in this debate.

Ms M.M. Quirk: Oh, you stalker!

Mr D.A.E. SCAIFE: I know. One might use that description of me, member for Landsdale, but I certainly would not.

It is a privilege to follow the member for Mount Lawley because he always gives a contribution that reflects on the values that sit behind many of the bills before this Parliament and the work that is done by this Labor government. As a member of the Labor Party, I know that we are all driven here out of a strong sense of values such as those the member for Mount Lawley has discussed—freedom of speech and, in respect of this legislation, the presumption of innocence, but also the importance of protecting society and the most vulnerable in our society. It is certainly the case that this bill is aimed at protecting some of the most vulnerable people in our society—that is, children who have been victims of sexual offences.

I would also like to say that I am very grateful to the member for Kalamunda who allowed me to speak now so that I am not holding you, Acting Speaker, up in the chair. I also thank you, Acting Speaker, for remaining in the chair beyond 5.00 pm while I make my contribution; it is very much appreciated.

I join the member for Mount Lawley in commending the Attorney General on bringing this bill into the Parliament. It is a significant bill. It obviously has its genesis in events that we, unfortunately, have to come to terms with in our society—the scourge of child sexual abuse. As I said, this bill is directed towards ensuring that we protect those victims while also striking the right balance with protecting the presumption of innocence. I want to make the point that this bill still preserves the presumption of innocence. The presumption of innocence is a foundational value—some might even say a constitutional principle—of our legal system. Viscount Sankey made a statement many years ago that described the presumption of innocence as being the "golden thread" running through English criminal law. Of course, Western Australia inherited the English system of law. That same statement by Viscount Sankey is applicable to our legal system—the presumption of innocence is the golden thread that runs through our legal system.

The concept of bail is based upon the presumption of innocence. Bail provides a mechanism whereby if someone is accused of an offence, that person may have their liberty preserved until such time as they are proven guilty of that offence. Bail has always been based on striking a balance. Although bail protects the liberty of the accused, it is also the case that bail is not necessarily automatically granted. It is a discretion that must be exercised by the magistrate or the judge, whichever the case may be. In exercising that discretion, the magistrate or the judge has to take a variety of considerations into account. Those considerations are many and varied, but they are about striking that balance between preserving the liberty of the accused and protecting the public from further offences in the event that the accused is someone who has engaged in criminal behaviour. The point that I want to convey to the chamber is that bail is a foundational expression of the presumption of innocence in our legal system, but it is also and always has been a concept that has to strike a balance between the protection of the public and the protection of the accused and the protection of the value of the presumption of innocence. In that context, it is worth noting that this bill does not provide a mechanism for the mandatory denial of bail. Instead, this bill seeks to provide a series of considerations that must be taken into account when a magistrate or judge exercises their discretion in relation to bail when the offences fall into a particular category. Those offences are directed towards the protection of children and they involve child sexual abuse or similar conduct, which is some of the most heinous conduct we see in our society. I congratulate the Attorney General not only for bringing this bill into this place, but also for bringing in a bill that strikes a balance between preserving the presumption of innocence while also protecting the public.

In recent years there have been significant developments in community expectations of the protection of children, in particular the investigation and prosecution of child sexual offences. The Royal Commission into Institutional Responses to Child Sexual Abuse is one of the great legacies of the federal Gillard Labor government. It took Prime Minister Julia Gillard to stand up and bravely bring forward that royal commission to turn a light on some very dark places, not only in the history of this country, but also in recent times in this country. As the member for Mount Lawley alluded to, almost 10 years after that royal commission was announced, we are still coming to grips with the findings, the recommendations and the work demanded by that royal commission. The royal commission exposed that we have to puncture the culture of silence—the culture of secrecy that surrounds allegations and practices of child sexual abuse. It is only through reforms such as this and things like working with children checks that we can build a culture over time that will puncture that secrecy and silence what has been put up with for far too long.

One of the things that I want to comment on is that this legislation encompasses some of the most important work of this Parliament. It will add to a series of reforms that this Parliament has engaged in for many years. It is also work that has, by and large, established bipartisan and cross-party support in this country. In that context, I was quite disappointed to see some of the public commentary on this bill by the opposition, particularly by the shadow Attorney General. In my view, some things that we do in this Parliament, some bills that we debate, should be above criticism. They should be above the urge that some members feel to throw a partisan barb, to score a point. Sometimes it is best not to criticise and instead be constructive. Some things in this Parliament should be above that kind of behaviour, and this bill is one of those things. It will do incredibly important work to reform our legal system to make sure that victims of child sexual abuse are protected and their interests are considered by the courts while also protecting the presumption of innocence. Instead, regrettably, I saw that the shadow Attorney General issued a media release just under a week ago, on 10 August 2022, in which he criticised the bill and criticised the Attorney General for his conduct. The media statement went into many of the tropes that the opposition has wheeled out in relation to the Attorney General in recent debates. I thought it was a bit tawdry to see that kind of partisan political pointscoring attack on the Attorney General being mixed in with a statement about a bill as important and sensitive as the one before us. Unfortunately, it is reflective of what the opposition does in this place.

The opposition endlessly criticises, even on bills such as this, which really should be above criticism. I appeal to the opposition. I know it is difficult for the opposition because I know that it is not a traditional opposition; it is an opposition alliance, as it describes itself. I do not think members of the opposition know what the word "alliance" means. It means that they are supposed to be on the same team. I do not think the Liberal Party and the Nationals WA are on the same team. We have seen that in the North West Central by-election, where the Liberal Party and the National Party are running against each other and will no doubt be attacking each other over the coming months. I understand that because it is a fractious coalition of the Liberal Party and the National Party. Sometimes they are not on the same page. I appeal to the opposition alliance to get on the same page when it comes to significant bills like this.

I should say that I have been referring to the shadow Attorney General by his role as the shadow Attorney General. I do that deliberately. If I were to refer to the shadow Attorney General by name, I would have to use the title "honourable" and that is not something that I am willing to do in this place. I will refer to him as the shadow Attorney General instead so I do not have to use the honorific "honourable". The shadow Attorney General really should not be slinging mud at the Attorney General in the context of a bill like this when it is well known that he is a member of "The Clan". I think by definition—the way that the Liberal Party did it, or does it, or used to do it—by virtue of being a member of the Liberal Party in the other place, a member automatically belongs to what is known as the "Black Hand Gang". I am sure the Attorney General will correct me if I am wrong about that, but as I understand it, all Liberal Party members in the upper house are members of some secret society known as the "Black Hand Gang", which is very sinister sounding. It is a very sinister name; it sounds like a pretty sinister group.

Mr M. Hughes interjected.

Mr D.A.E. SCAIFE: I think that is right, member for Kalamunda. It has been used in various contexts, none of them positive. Anyway, the shadow Attorney General is a member of "The Clan", and we all know that "The Clan" has engaged in some absolutely despicable behaviour and made comments towards women members of this Parliament that really are not acceptable. They are not in keeping with community expectations. I really think that the shadow Attorney General should be the last person to sling mud and aim criticism at the Attorney General. He certainly should not be doing it in the context of a bill as serious as this one. We are all politicians here; we all understand the need to engage in politics, but just because we can make a criticism does not mean that we have to. In the context of a serious bill such as this, which seeks to protect victims of child sexual abuse and is an important reform to our criminal justice system, I think that it completely misses the gravity of this bill to issue a statement seemingly purely for the purposes of attacking the Attorney General, attacking his conduct and attacking his handling of not only this bill, but also the general portfolio of the Attorney General. I call on the opposition to make sure that that does not continue because it really just lowers the credibility of the shadow Attorney General. It lowers the credibility of the opposition alliance, and it does nothing to progress the sensible debate of legislation in either this chamber or the other place.

I move now to discussing the text of the bill and the way that this bill achieves its purpose of protecting victims of child sexual offences. Members will be aware, if they have read the explanatory memorandum or the text of the bill, that the bill will introduce a list of mandatory considerations. In the exercise by a magistrate or a judge of his or her discretion in relation to bail, this bill will prescribe a list of conditions that must be taken into account when the accused is alleged to have committed one of the prescribed offences, and I will broadly refer to those as child sexual offences.

[Member's time extended.]

Mr D.A.E. SCAIFE: One clause in particular sets out these prescribed considerations. Clause 8 of the Bail Amendment Bill 2022 inserts three proposed sections that set out various matters that are relevant to the exercising of the bail discretion and must be taken into consideration. Proposed clause 3AA is titled "Additional relevant matters in cases

of sexual offences against child victims". I am referring to the protective function in relation to victims of child sexual offences. It sets out the circumstance in which the proposed section will apply but then it describes those certain considerations that need to be taken into account. Proposed clause 3AA(3) sets out —

> The matters are the following —
>
> (a) the age of the child victim;

I note at this point that members might be wondering how the bill can refer to a child victim when, of course, at this stage in the process, it is the bail stage before conviction. How could it be determined that there is a child victim because, of course, the offence has not been finally adjudicated by the court? The reason is that the bill has a definition of the term "child victim". That term is specifically defined in the legislation at clause 7, which will insert proposed clause 1A —

> ***child victim***, in relation to a discretion to grant bail, means a person —
>
> (a) against whom a relevant offence is alleged to have been committed; and
>
> (b) who is under 18 years of age when the discretion is to be exercised;

That definition means that, essentially, the term "child victim" in the bill refers to a person who is alleged to have been a victim of one of these relevant offences. Returning to proposed clause 3AA(3), the various characteristics that must be taken into account include —

> (a) the age of the child victim;
>
> (b) the age of the accused;

That is critical to note because the difference in age between the victim and the accused might be a relevant consideration because it may go to the level of power imbalance between the accused and the victim. Regrettably, we know that in some of these cases we see victims who are children but who might be only a year or a couple of years younger than the accused because the offence has occurred in the course of a relationship of some sort or through the fact that the victim and the accused know each other through school or some context like that. It is important for those two factors to be taken into account, and it can go to the issue of power imbalance. The matters also include —

> (c) whether the child victim is in a family relationship with the accused;
>
> (d) the living arrangements of the child victim and of the accused;
>
> …
>
> (f) the physical and emotional wellbeing of the child victim.

They are all factors that must be taken into account by the judge or magistrate. I think that that is a really significant set of criteria for the reasons I outlined, but also because they are what I might term—I use this term loosely and not in a legal sense—objective characteristics that the court can take into account. Things such as age, living arrangements or whether the accused is living with the child victim, for example, can be definitively ascertained. Those matters can be easily or relatively easily ascertained by the judge or magistrate and then the judge or magistrate can factor those into the exercise of his or her discretion. What is important though, of course, in bearing this in mind is that all these matters need to be taken into consideration by the judge or magistrate, but that does not mean that all of them will carry full weight. It also does not mean that all will be relevant. It may be the case, for example, that one factor is not particularly relevant on the facts of that case. This will provide a safeguard because it will mean that the judge or magistrate in exercising their discretion needs to be very careful. I have to say, all judicial officers are very careful with the exercise of their discretion.

But it is the case sometimes that discretion miscarries. If that were not the case, we would not have any need for appeals. We know that judicial discretion does miscarry sometimes. This provision will set mandatory considerations to guide the exercise of judicial discretion and reduce the possibility of a discretion miscarrying. A judge or magistrate will go through a list of factors and take them into account. If they decide that one of those factors is not particularly relevant, that may be fine. If they think that one of those factors is not particularly weighty, again, that is fine. But the judge or magistrate would have at least directed their attention in a very deliberate manner to those mandatory considerations, and that, in a sense, will be a protection against the miscarriage of judicial discretion. It will also be a protection against overlooking the objective circumstances of a child victim and their relationship with the accused.

It is really important to point out proposed clause 3AB because it moves away from being just a list of objective mandatory considerations to a requirement for the judge or magistrate to actually take into consideration the concerns, the subjective state of mind, of the child victim. This is significant because one of the lessons out of the Royal Commission into Institutional Responses to Child Sexual Abuse is that we have to listen to the personal experiences of child victims of sexual offences. We have to listen to and believe and take seriously any allegations made of child sexual abuse. The lesson from that is to put first the interests of children and make sure that their concerns are taken seriously. It is not just about looking at the circumstances from an objective, or overhead, point of view; this provision will require the judge or the magistrate to look closely at the views of the child victim.

The proposed clause says —

> (1) This clause applies if —
>
> (a) a relevant offence is a sexual offence against a child victim; and
>
> (b) either —
>
> (i) the child victim expresses concern to the prosecutor that the accused, if not kept in custody, may endanger the safety or welfare of the child victim; or
>
> (ii) a family member of the child victim or a police officer investigating the relevant offence informs the prosecutor that the child victim has expressed that concern;
>
> …
>
> (2) The prosecutor must inform the judicial officer or authorised officer about —
>
> (a) the child victim's expression of concern; and
>
> (b) so far as practicable, the reasons for that concern.

This provision will place an obligation on the prosecutor to inform the judicial officer, or the authorised officer, whoever that might be, about any concerns that have been expressed by the child victim about their safety or their welfare in respect of the accused. That is really important because, as I said, we need to make sure that children are seen, heard and believed in all areas of life, but particularly in relation to allegations of child sexual abuse.

That takes me back to the point I made fairly early in my contribution—that is, the need to puncture the culture of secrecy and silence around child sexual abuse. We can only effectively puncture that silence if we listen to the voices of victims of child sexual abuse. It is not enough to just go through the motions or to introduce legislative reform. We have to, in the process of doing those things—introducing bills like this one—build a culture in which we do not turn away from difficult issues and confronting allegations and offences so that we are not part of the regrettable history in our country, and many other countries, of turning a blind eye to child sexual abuse. Instead, we are going to build a culture in which we do not merely pay lip-service to the concept but we as a society actively seek out and prioritise the views of children who are victims and make allegations of sexual abuse. In that respect, I think it is worth reflecting on the fact that although the work we do in this place is often limited to particular bills, motions and committee inquiries, there is a bigger picture. It is never just about the one bill or one inquiry; it is about the culture that is built and the values that are expressed through the collective body of work. I have to say, this is a government and an Attorney General who are doing a great job over time to put in place the pieces to build a culture that roots out the dark problems in our society, like child sexual abuse and family and domestic violence. I am very proud to serve as a member on the government benches with an Attorney General like the one we have; he is prolific and reformist.

MR M. HUGHES (Kalamunda) [5.07 pm]: I rise to make a contribution on the Bail Amendment Bill 2022. The Attorney General announced these amendments in December 2020 and made clear that he would give the protection of vulnerable children the utmost priority. I note that comment exercised interest, yet again, in the contribution this afternoon by the member for Moore. He wants to turn our attention to the definition, if you like, of "utmost priority". The member in his contribution failed to provide the complete sentence that the Attorney General made on this legislation in December 2020. The Attorney General said that the amendments would ensure —

> … that the best possible measures are put in place as soon as possible to ensure in future that the vulnerability of child complainants of sexual abuse are considered at each step of the process."

He said "the best possible measures are put in place as soon as possible", but, yet again, as the member for Cockburn said, the opposition is seeking to gain political capital out of the situation rather than acknowledging the importance of ensuring that the amendments contained in this bill will achieve the intended outcome—that is, to put the best possible measures in place to ensure in the future that the vulnerability of child complainants of sexual abuse is considered at each step of the process.

At the outset I want to underscore my support for the amendments. They are a measured response to the set of circumstances that give rise to their framing. I will not go into what gave rise to bringing this important legislation before Parliament. I also wish to comment, on principle, on the importance of proceeding with caution, which the Attorney General demonstrably has done to ensure the framing of this bill meets its intended purposes—that is, preserving an accused person's right to the presumption of innocence until proven guilty and to bail. Bail is a right that needs to be protected. As with sentencing and parole, bail is an issue that is ripe for politicisation, as evidenced by the predictable comments from opposition members, not least Hon Nick Goiran, MLC. Law and order is a predictable fall-back position for the Liberal and National Parties and the far right of both parties at each and every state and federal election. It is not surprising that they have done the same with their criticism of the Attorney General, yet again. They use it to wedge the community, and we can see this in the way they have used the stance in their responses to issues—for example, within the Carnarvon community. They are not looking for solutions; in fact, they have nothing constructive to offer by way of contributing to supporting the community. They encourage others and

themselves to use inflammatory language. The member for Cockburn mentioned in his contribution the importance of the opposition members needing to deal with real and serious issues so that the community could take them seriously, yet they are not able to do it.

Although each state and territory has a different structure and expression of the laws governing bail and custodial remand, which is when bail is denied, each jurisdiction, in managing bail, has to balance three at times conflicting goals—firstly, ensuring the integrity and credibility of the justice system; secondly, protecting the community; and, thirdly, safeguarding the best interests of defendants. It can be argued, though, that over the last decade or so, across each of our states and territories, and with the commonwealth, changes to the bail laws have led to a shift away from the primary concern of ensuring that an accused does not abscond to a focus on the second outcome—namely, preventing offending while on bail. This is conceptualised by some law academics as a move from seeing bail as basically a procedural mechanism to a substantive, independent forum in which crime prevention aims are pursued through the rise of risk-based mentalities.

In part, as a result of this pronounced shift, our Australian unsentenced prisoner population has risen to unprecedented levels. Ten years ago, the unsentenced prisoner population was 24 per cent of the total; 10 years later, it is in the region of 32 per cent. Close to one-third of our prison population is made up of accused persons on remand awaiting trial. Apart from the considerable national cost associated with keeping people in custody on remand, which is estimated to be well in excess of $1.5 billion annually, importantly, there are significant human rights concerns relating to this increase in the number of accused persons held in custody on remand. Research shows that in Victoria, 40 per cent of remandees will be either found not guilty or sentenced to a period equal to or less than the time they have already served on remand. Similar research in New South Wales found that 55 per cent of people held on remand were subsequently released without conviction. There is every reason to believe that the situation in Western Australia is not appreciably different. Hidden in this broad statistic is the over-representation of Aboriginal Western Australians making up our prison population, including those on remand.

As we contemplate further tightening our Bail Act—in the circumstances that give rise to this; it is very important that we should proceed with the amendments to the Bail Act—we should remind ourselves at the outset that every accused person is entitled to expect to remain free until their trial and possible conviction. The presumption of innocence is fundamental to our criminal justice system, and it sets us aside from those regimes whereby arbitrary detention and the absence of justice and fairness characterise the way they deal with their citizens. In this regard, the starting point for any debate in the area of enacting restrictive changes to our Bail Act must be that pre-trial deprivation of liberty prior to conviction be regarded as an extraordinary remedy and be carefully considered. The shadow Attorney General, Hon Nick Goiran, MLC—the unprincipled leader of the discredited and disgraceful Liberal Party faction, "The Clan"—would do well to remember this rather than, yet again, shooting off his mouth in the pursuit of cheap political point scoring.

In our state, an accused's right to have bail considered is set out in section 5 of the Bail Act 1982. The provisions that apply in respect of less serious indictable offences and summary offences are set out in section 6A(2) and (3) of the act. Section 6A states —

> (4) Not releasing an accused is justified if there are reasonable grounds to suspect that if the accused were released —
>
> (a) the accused —
>
> (i) would commit an offence; or
>
> (ii) would continue or repeat an offence with which he or she is charged; or
>
> (iii) would endanger another person's safety or property; or
>
> (iv) would interfere with witnesses or otherwise obstruct the course of justice …
>
> or
>
> (b) the accused's safety would be endangered.

Clause 1 of part C of schedule 1 of the act requires a court, when considering whether to grant or re-use bail for an adult in custody, to determine —

> (a) whether, if the accused is not kept in custody, he may —
>
> (i) fail to appear in court …
>
> (ii) commit an offence; or
>
> (iii) endanger the safety, welfare, or property of any person; or
>
> (iv) interfere with witnesses or otherwise obstruct the course of justice …
>
> (b) whether the accused needs to be held in custody for his own protection;
>
> (c) whether the prosecutor has put forward grounds for opposing the grant of bail;

> (d) whether … there are grounds for believing that, if he is not kept in custody, the proper conduct of the trial may be prejudiced;
>
> (e) whether there is any condition which could reasonably be imposed under Part D which would —
>
> (i) sufficiently remove the possibility referred to in paragraphs (a) and (d); or
>
> (ii) obviate the need referred to in paragraph (b); or
>
> (iii) remove the grounds for opposition referred to in paragraph (c);
>
> …
>
> (g) whether the alleged circumstances of the offence or offences amount to wrongdoing of such a serious nature as to make a grant of bail inappropriate.

In common with other jurisdictions, we also have a show-cause provision. In our state, the exceptional circumstances provisions are linked to a range of serious offences requiring the accused to demonstrate why bail should be granted. An extensive list of serious offences is set out in schedule 2 of the act.

As part of my contribution to this debate, not detracting from my support of the amendments contained in this bill, I would like to look at the operation of our Bail Act and the over-representation of Indigenous Western Australians in our prisons as both sentenced and unsentenced prisoners. The shift over the last decade or so in the purpose and use of bail, from an emphasis on the presumption of innocence to a focus on risk and community safety and its increasing use as a crime prevention tool, has made it, I would argue, disproportionately harder for Indigenous people to qualify for bail. Research by the Australian Institute of Criminology—that is, Willis, 2018—supports this conclusion. It states —

> Some defendants may not seek bail because they anticipate that they will not qualify and/or weigh up the fact that they will not need to worry about meeting bail requirements if held in prison on remand … Other factors include the lack of accommodation or bail support programs, while some women indicate that time in prison provides respite from family violence, drug use and being caught up in their partner's criminal behaviours.

The evidence is clear that the number of sentenced and unsentenced Indigenous prisoners is at very high levels; but the growth in unsentenced prisoners has been marked. What follows is 2018 data from the Australian Bureau of Statistics relating to unsentenced Indigenous prisoners in Western Australia; however, given that our Indigenous prison population has grown by over seven per cent from 2016 to 2021, I would argue, in broad terms, that the statistics are reflective of the current situation in Western Australia. In 2018, Western Australia had the highest rate of Indigenous persons on remand at 1 430 per 100 000 persons—well in excess of any other jurisdiction other than South Australia, where the figure was 1 263 per 100 000 persons. Lorana Bartels, the professor and head of the School of Law and Justice at the University of Canberra, in the article "Bail, risk and law reform: A review of bail and legislation across Australia" observes that the changes that a number of Australia's Parliaments have enacted have predominantly directed the judiciary and the police to become more risk-averse when it comes to bail decision-making.

Although there is evidence of a few non-punitive reforms, overall, bail legislation around Australia has been significantly tightened over the past decade or so. This has happened primarily in response to a number of high-profile cases in which the decision to grant bail was shown, with the benefit of hindsight, to have been the wrong decision. The key tool of these changes has been to require bail authorities to discard the presumption of bail in favour of the presumption against bail, which requires the applicant to show cause why he or she should be granted bail, rather than a police officer or prosecutor having to offer persuasive reasons why bail should be refused. As an example, in Western Australia, in common with a number of other jurisdictions, we have introduced presumption against bail in relation to family violence, along with reform to make it harder to secure bail in situations in which an accused has previously been convicted of sexual offences or has been a member of a criminal organisation. These are all very important measures. Nevertheless, the changes to our Bail Act in respect of lesser offences have, I believe, had the deleterious effect of increasing the number of Indigenous people on remand in our jails.

It is, I believe, important to continue to restate that determining bail is not a question of whether the accused is guilty of committing the crime with which they are charged. Bail has always been, and remains, an exercise in risk-management—the risk originally being the failure to appear in court to answer the charge, or the risk of reoffending while on bail. Some observers would argue that the perceived purpose of bail has changed over the last decade or so to the point at which it has come to symbolise judgement and serve as a proxy for guilt and punishment. It is argued that, because high-profile cases and the consequential general decrease in the appetite for risk have shifted fundamentally, Australian bail practices have moved away from their foundational principles. Bartels and others have observed that we are now at a point at which bail has been said to represent a moment when accusation, guilt and punishment are conflated. When seeking to further tighten our laws regarding bail, we should be mindful of this trend.

I support the Bail Amendment Bill 2022's proportionate and balanced response to the identified need to further protect the safety and welfare of child victims of child sexual offences, along with the victims of domestic violence, and the delivery of the Attorney General's commitment to legislate to ensure that, in these circumstances, as contained in the amendments to the Bail Act within this bill, the best possible measures are put in place to ensure in future that the vulnerability of child complainants of sexual abuse are considered at each step of the judicial process. The member for Cockburn outlined the ways in which the various clauses of the bill will achieve that outcome, so I will not go through them again.

I accept that the issue of bail and remand in custody is not an easy field of policy development. There are many thousands of decisions made by bail authorities that give rise to satisfactory outcomes. Risk assessment is no easy task. As parliamentarians, we have to be careful not to allow the bail system to become a political scapegoat, susceptible to the vicissitudes of newspaper columnists and right-wing commentators, who have all the clarity of vision that myopic hindsight provides.

I will make a few concluding comments. I note WA Labor's comprehensive raft of initiatives related to family and domestic violence, which is in line with the national plan to reduce violence against women and children, and our commitment to and delivery of funding of family and domestic violence programs for women in prison. These are evidenced-based initiatives, and they build on projects that have proven to be successful.

[Member's time extended.]

Mr M. HUGHES: However, a fundamental question for me is the realisation of the ambitious target promised in the 12 key targets that will define the WA Labor government: that being the reduction, by 2029, of the over-representation of Aboriginal people in custody by 23 per cent. This is an ambitious target. Unfortunately, the plan was shelved when the COVID-19 pandemic took hold. When WA Labor came to government in March 2017, the number of Aboriginal and Torres Strait Islander people in full-time custody was 2 482. As at June 2021, the number was 2 664. This represents a 7.3 per cent increase. From the data available, it is clear that the most significant increase in the Indigenous prison population is for women. We know that more Indigenous people have been in prison before than is the case for non-Indigenous people. We know that Indigenous people tend to serve shorter sentences than non-Indigenous people, and that few of them apply for or receive early release.

University of Western Australia Associate Professor Hilde Tubex calls for greater investment in diversionary options; further investment in family and domestic violence initiatives; more culturally appropriate treatment programs, particularly for women; and, importantly, support for early release and through-care services to break the cycle of reoffending. I hope, given our parliamentary majority in both houses of this Parliament, and the prospect that we can expect further terms in government, that ahead of the 2029 200th anniversary of European settlement in Western Australia and the consequential dislocation, marginalisation and disempowerment of our First Nations peoples, we set about in a rigorous and determined fashion to address Indigenous over-representation in the criminal justice system, including, Attorney General, raising the age of criminal responsibility from 10 years of age.

Juvenile detention is criminogenic; it increases, rather than decreases, the odds of reoffending and can have some serious negative consequences for a child's health, education, and future employment, including a shortened life expectancy. We have heard contributions from the opposition in question time and during today's matter of public interest, attacking what the government is doing in our detention system. The places of detention for juveniles are the places our courts send them. If there is going to be any reform of the ways in which we deal with the issue of juvenile offending, particularly by Indigenous youth, we have to look at the way we are raising children within our community, and the kinds of situations they find themselves in. I understand that there is only so much that governments can do, but we should not be railing against the Minister for Corrective Services on the basis of what might be happening in our detention centres as a result of children being very much hardened by their experiences of our justice system, from a very early age. It is something that we have to attend to.

Both the Australian Medical Association and the Law Council of Australia have called for the age of criminal responsibility to be raised to 14 years. I share that view; we should strive to achieve that outcome. In Western Australia, the imprisonment rate of Indigenous young people between the ages of 10 and 17 years of age is 21 times that of young non-Indigenous Western Australians. We should pause to think about that, but it is perhaps a subject for another debate at another time. I thank you for your indulgence, Acting Speaker. I conclude by reiterating that I support the Bail Amendment Bill 2022 and the proposed amendments to the Bail Act 1982.

MS M.J. HAMMAT (Mirrabooka) [5.29 pm]: I rise to make a contribution to the second reading debate on the Bail Amendment Bill 2022. We have already had a number of good contributions, including your own, Acting Speaker Scaife. I want to do a few things by way of introduction and then make some specific comments.

As many have done before me, I want to acknowledge the work of the Attorney General and the incredible reform agenda that he has implemented across a range of different areas. We have commented before, as bills have come to this place, on how he is creating a significant legacy of legislative achievement, reforming in a way that is very progressive and driven by very Labor values. He is very mindful of creating fairness and a justice system that is available to the people of Western Australia, no matter who they are, where they come from or how much they earn.

I want to commend the Attorney General for his work in this area. This bill is another important plank in a significant body of work that I think will be much commented on for many years to come. Although the bill deals with bail in particular circumstances, it should be seen as part of a body of work by this Attorney General that is driving significant change in our legislative framework here in Western Australia.

I also want to commend the Attorney General for the work he has done in finding an appropriate balance. Others have said this before me, but I think it is important to reiterate that this bill will not result in the mandatory denial of bail. That is important because the presumption of innocence is a fundamental tenet of our legal system—something that I and many people in this place hold very dear, and I know the Attorney General is very mindful of those basic principles. This bill will try to find a balance between the presumption of innocence and protecting child victims in particular. I can appreciate that that is not an easy balance to find. I think it is difficult to strike the right balance. The Attorney General noted in his second reading speech that many in the community had called for the mandatory denial of bail in these circumstances, perhaps in a situation of elevated emotion. I think the Attorney General has found a pathway that protects the foundation of our justice system, particularly the presumption of innocence, but is also very mindful of ensuring that child victims are protected by bail deliberations.

I will come to the specifics of the bill towards the end of my contribution. Others have already touched on that. What I really want to speak about is how this bill is part of a broader agenda that is being progressed by this government and, in particular, the work the government is doing to keep our children and young people safe. Others have commented on the substantial body of work arising from the Royal Commission into Institutional Responses to Child Sexual Abuse and how that royal commission was a significant piece of work initiated by the Gillard Labor government in 2013. The commission undertook extensive work; people have commented on that in debates on other bills in this place. I think it is important to understand the very thorough process that the commission went through to arrive at its recommendations. During the course of its investigations, the commission received nearly 26 000 letters and emails, conducted 8 013 private sessions, took over 42 000 phone calls and referred 2 575 matters to authorities. It undertook a significant amount of work. The final report comprised 17 volumes, two supplementary reports and 409 recommendations, recommending a wide range of things to ensure safeguards for children and young people. The commission's report was released in 2017, and the task since then, for both federal and state governments, has been to turn their minds to the implementation of those recommendations and to take steps to ensure that our young people are protected—particularly, but not only, in institutional settings.

The McGowan Labor government has been undertaking a significant body of work to address those recommendations. This work, which I am very proud of and which we as a government are collectively very proud of, has been undertaken across a range of different areas; it is not just legislative. I want to acknowledge the work of Minister McGurk, Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; Community Services—and other ministers as well—in overseeing the substantial work that has been undertaken to implement the recommendations of the royal commission. One of the things that we have learnt from the work of the royal commission is that it requires a coordinated response across government to ensure that we are taking appropriate steps to implement those recommendations and, importantly, to ensure that young people are kept safe.

In my comments today I will go to the Western Australia government's progress report on its implementation of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, appropriately called *Creating a safer WA for children and young people*. It is important to understand the broader framework that exists. This bill sits within that broader framework and will be an important part of the steps we are taking. The work undertaken by this government is broadly grouped into three categories, one of which is "healing past hurts". The National Redress Scheme, as others have mentioned in their contributions to this debate, is an important part of ensuring that, for victims and survivors of child sexual abuse, there is a process or a scheme that provides redress, counselling and support. Part of our obligation is to address historical events and do what we can to ensure that those past hurts heal.

It is also important that we protect children now, and this is the important piece of work that I want to talk about in a little bit more detail tonight. In the work that we are doing to protect children now, we are making sure that we have appropriate safeguards and an appropriate legislative framework. Members in this place are well aware of some of the work that we have been doing in this space. Indeed, bills have progressed through this house that go to putting in place a legislative framework that will ensure children have appropriate protection in the future. One of those bills, the Children and Community Services Amendment Bill 2021, received royal assent in October last year. People will recall that bill; there were a number of speakers on it. It expanded the mandatory reporting scheme and included new categories of reporting—including, significantly, ministers of religion and other groups as well. It put in place provisions to ensure that those who are in a position to hear of child sexual abuse are required to report it.

The other bill that has recently passed through this house is the Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2021, which was debated earlier this year. Significantly, that bill will legislate for the Ombudsman to provide independent oversight of how important institutions are dealing with their responsibilities to report instances of child sexual abuse. Again, a number of very good contributions were made when that bill came to this place. The work the government is doing in expanding mandatory reporting, making sure that we have

appropriate oversight like reportable conduct schemes and supporting the passage of legislation are very important pieces of the jigsaw to make sure that we have appropriate planks in place to ensure that young people and children are safe and protected in our state. That work has been unfolding, but there is more to it. One important piece of work under the broad headline of what we are doing to keep children safe is the implementation of child-friendly complaint processes and making sure that we have opportunities for children and young people to make complaints in a way that makes sense for them. This is a requirement from the Commissioner for Children and Young People, who has developed a self-assessment tool. The Department of Communities had a look at applying that tool and really taking on board the need to make sure we have a complaints process that is accessible to our young people and children so that, in the event they need to raise complaints or issues, they have easy-to-read guides and easy-to-understand communication material. This will enable them to understand the complaints process and raise the things that they are concerned about. It will give our young people a voice in the circumstances in which they need it.

Under this heading, we are also providing access to justice. This is a really important part of the ongoing work that the government is undertaking to ensure that survivors of sexual abuse have access to justice. It is about making sure we embed processes into our systems so that when people make complaints, they feel they have been heard and have received justice. From the work the Royal Commission into Institutional Responses to Child Sexual Abuse undertook, one of the things that came through very strongly was people's sense of not having received justice on occasions when they tried to raise their complaints. They felt unheard and as though they were not taken seriously. They were not able to pursue fair and just outcomes because they simply did not have the tools available. It is very important that, at every step along the way, we understand and have structures in place that will ensure people are able to seek justice when they feel they have been wronged. Part of that is working with the Western Australia Police Force to ensure that, as the potential first port of call where complaints are made, they have the tools, resources and the understanding to provide safe, supportive and trauma-informed processes for victims and survivors of sexual abuse. When young people are involved, we need to be particularly sensitive and responsive to the needs of those young people. I believe that the first of the resources has been developed to provide guidance for people who are 16 years old and over. This is an important step in ensuring that, at all points along the way, people will have responsive and appropriate support from the various points of call and how the matter is heard and addressed. Putting in place appropriate trauma-informed responses ensures an understanding that coming forward with complaints is often a very difficult step. It needs to be treated in a particular and sensitive way.

I want to come now to the part of our current response that deals with criminal and civil reforms. In this context, the Bail Amendment Bill 2022 is part of a range of things that are happening in this space. It is an important reform that will provide appropriate support for victims of child sex abuse and ensure that they are put at the centre of the decision-making about bail for alleged perpetrators. That is a really important step in ensuring that we deliver support and justice, and an appropriate system for people who have experienced child sexual abuse. Under the broad area of criminal and civil reforms, a number of recommendations arose from the royal commission. They include providing support to vulnerable witnesses and recognising that our justice system is a trail that has many steps on the way. The Bail Amendment Bill is an important part of that but so is providing support to witnesses, many of whom may be vulnerable and may find themselves having to provide difficult and uncomfortable evidence. I know members will be excited to hear about the justice facility dog pilot program that has commenced. It is looking at ways to provide people who are giving evidence with support to do so in a way that is less stressful. I want to particularly mention Winston, a five-year-old black labrador who has been trained by the Guide Dogs of Western Australia to work in the Perth Children's Court. The member for Victoria Park will be pleased to know this. That is just another example of some of the work we are doing across a wide range of fronts to assist in protecting our young people and ensuring they get justice. There are a range of initiatives of which the Bail Amendment Act is one. I am sure that if the Attorney General were to bring Winston the dog here, there would be many more people in the chamber to welcome him and listen to my contribution on the Bail Amendment Bill!

The third thing that the government is doing in this space is implementing a range of strategies that are designed to prevent further harm. This recognises that our work needs to not just provide redress or protect children today, but also ensure we prevent further harm. The government's approach has been well guided by ensuring we take an evidence-based approach and that we are working towards implementing proven strategies that will help victims of child sexual abuse.

[Member's time extended.]

Ms M.J. HAMMAT: I want to commend the work that has been done in the Western Australian government's response to implementing the recommendations of the royal commission. The recommendations are wideranging and many, but the work is very important and I think we all understand that. Many members have reflected on that in their contributions tonight. One of the great hallmarks of this government is having a plan, working diligently to implement that plan, and ensuring that we are not deterred by the complexity of the challenge. In the implementation of the royal commission's recommendations, members can see that work happening across a range of different portfolios, bringing together the work of a range of ministers. Again, I want to congratulate and commend the Attorney General for his work across a broad range of areas, particularly to understand this bill as part of broader body of work that the government is undertaking.

In my comments tonight, I want to briefly acknowledge one of the things that this government is doing to prevent further harm—that is, taking seriously the need to provide protection and support, particularly to children who are in the child protection system. I wanted to take this opportunity to congratulate the ministers involved for the recent announcement that the Home Stretch program would be permanently extended for young people in the child protection system aged 18 to the age of 21 years. The government has committed $37.2 million to achieve this. I think people understand that the age of 18 is very young to be out in the world on your own. Until now, that has been the case for children in the child protection system. They have been required to transition out of that care at the age of 18. As the parent of a 20-year-old who is still at home and contributes little to the house in general, I can relate to the idea, as would many others, that 18 is very young to be out in the world on your own. Many 18-year-olds are still completing school. Not surprisingly, research shows that young people transitioning out of care at the age of 18 are at greater risk of unemployment, homelessness, mental health issues and interactions with the criminal justice system. This announcement and this commitment to protect young people, particularly those in the child protection system, is an excellent initiative and part of an important legacy that this government is creating in response to dealing with young and vulnerable people.

I conclude by turning to some of the elements of the bill, although others have covered it before me and undoubtedly done it far better than me. Not being a lawyer, it is probably a better area for others to talk about. At the heart of this legislation, as I said earlier, is giving victims the opportunity to have a voice in the decisions that are made about bail when people are alleged to have committed child sex offences; and ensuring that proper considerations are in the bill, particularly amendments to serious offences under schedule 2 of the act to ensure that they are included and recognised as being serious offences. I have also talked about deleting the existing definition of "serious offence" from section 6A of the Bail Act, ensuring that a global definition applies. Basically, this will mean that there is no opportunity for certain offences to not be considered serious offences. It is also important that the consideration for certain offences to be included ensures that appropriate regard is had to the person who is seeking bail and that it is an informed decision in relation to not just what the offender is alleged to have done, but also other issues.

In bringing my comments to a conclusion, I wish to reiterate that this is another example of a bill—we have had a number—that perhaps look more technical and less far ranging but it is really important to see both this bill and many of the others we have dealt with as part of a significant and substantial legacy. As I said at the outset of my comments, I think the Attorney General is doing incredibly important and valuable work to undertake very progressive reform of our legislative system. He is a very energetic minister who is doing really important work to ensure that this state has a legal system with strong foundations and the opportunity for all people to access justice in the true and proper meaning of the word, regardless of who they are and where they come from, and to strike that fair and right balance between protecting victims and protecting those in the justice system. I conclude my comments and commend the bill to the house.

MS H.M. BEAZLEY (Victoria Park) [5.54 pm]: I am pleased to rise today to speak to the government's Bail Amendment Bill 2022—or perhaps "relieved" would be a better verb. As the Attorney General said when he read this bill for the second time in this place, the McGowan government committed almost two years ago to examine the operation of the Bail Act 1982 and identify ways to better respond to bail applications for adults accused of sexual offences against children. We recognise the traumatic effects that the release on bail of alleged abusers can have on their victims. We believe it is critical that we emphasise the importance of and seek to mitigate this trauma whenever we can. This is especially the case when the victim is a child. That is what the Bail Amendment Bill 2022 seeks to achieve. Thank you, Attorney General. These points summed up the intent of the bill perfectly. I also thank you for your incredible work in getting this bill drafted and to this place.

This bill has been over a year in drafting as the government consulted and sought to get the balance right. I believe this balance has been struck and been struck well. The result has kept the safety and care of child victims of child sexual abuse paramount. The proposed reforms will ensure that child victims are at the centre of decisions around bail. Under this bill, new bail considerations will ensure that concerns specific to child victims of alleged sexual offences are front of mind for all of those bail decision-makers. Those considerations include having regard to the conduct of the accused towards the alleged victim and their family since the time of the alleged offence. This will allow a bail decision-maker to determine whether there is a pattern of behaviour, such as grooming, controlling or coercive conduct, which anyone who has any exposure to offences regarding child sexual abuse know are very common threads to that offence. This consideration will be further extended to include the alleged offender's conduct towards victims and family members of victims of offences that they have been convicted of in the past—again, to examine the accused's behaviour and assist in the development of a risk profile to inform the decision as to whether they should be released on bail.

In addition, the Bail Amendment Bill 2022 provides for a bail decision to be deferred for up to 30 days. This will allow a bail decision-maker to consider what, if any, bail conditions should be imposed to enhance the protection of a child victim of an alleged sexual offence. Under this amendment, it is important to note that bail decisions will be able to be made by both judicial officers and authorised officers. Commonly, authorised officers are police officers. Currently, when a police officer may be required to consider bail, they may not have comprehensive information before them—information most reasonable people would consider necessary for such a decision to be made. This

includes matters such as the child victim's physical and emotional wellbeing or detailed information about their living arrangements. Under the Bail Amendment Bill, the bail decision-maker's ability to defer consideration for up to 30 days allows them to gather and consider this information and have that information —

The ACTING SPEAKER (Mrs L.A. Munday): Could everyone please bear in mind that the member for Victoria Park is trying to make a speech here. If we could all just give her some energy and time.

Ms H.M. BEAZLEY: Thank you, Madam Acting Speaker.

Under the Bail Amendment Bill, the bail decision-maker's ability to defer consideration of bail for up to 30 days allows them to gather and consider this information and have that information inform their decision, regarding what, if any, bail conditions should be imposed. This ability to defer consideration of bail does not limit an accused's right to be brought before a court as soon as practicable.

The Bail Amendment Bill also requires a prosecutor to inform a bail decision-maker of any safety or welfare concerns expressed by the child victim in relation to the release of the accused and the reason for those concerns. Under this bill, the bail decision-maker will be required to have regard to those concerns when determining bail. In other words, the concerns of child victims cannot be ignored when making a decision regarding an alleged offender's possible bail and its conditions. This express provision will elevate the voices of child victims. That is important because their safety will be considered when bail decisions are made. It also asserts to these child victims that their voices matter throughout the justice process—that their voices matter now and will always matter. This can go quite some way in their path of recovery, as being a victim of a sexual offence is indisputably a trauma.

In addition to the voice of the child victim, the voices of the victim's family member or a police officer investigating the offence will also be counted. These voices can also inform the prosecutor that the victim has expressed a concern about their safety and welfare if the accused is not kept in custody, and the prosecutor must then inform the bail decision-maker of that concern and the reasons for it. Again, the bail decision-maker must have regard to that consideration and that information. The voices and concerns of the child victim and those who care for them cannot be ignored.

The introduction of these new bail considerations will ensure that concerns specific to child victims of alleged sexual offences are front of mind for bail decision-makers. Proposed clause 3AA in the Bail Amendment Bill 2022 will also ensure that when a bail decision-maker is making bail decisions for an alleged offender of a sexual offence against a child victim, that decision-maker must have regard to the age of the child victim; the age of the accused; whether the child victim is in a family relationship with the accused, which is all too common; the importance of safety, continuity, security and stability in a child victim's living arrangements and family and community relationships; and the physical and emotional wellbeing of the child victim.

The Bail Amendment Bill 2022 will also require the court to consider whether a person has been convicted of an offence, together with any sentence that is likely to be imposed, when determining bail for an accused when awaiting sentencing. Very importantly to my mind, this bill will also expand the list of serious offences under the Bail Act 1982 to include sexual offences against children and several other offences in the Western Australian and commonwealth statute book. The bill seeks to delete the definition of "serious offence" currently in the Bail Act. Currently, "serious offence" is defined as an indictable offence that attracts a penalty of imprisonment of five years or more. However, some child sexual offences can attract penalties of less than five years' imprisonment, such as indecent dealing with a child over 13 and under 16 years of age. Let me say that again, as I am sure there are members of this place, and definitely members of our community, who would be surprised and disturbed to know that some child sexual offences, such as indecent dealing with a child over 13 and under 16 years of age, are not currently considered a serious offence. I believe such offences are very much serious. The proposed amendments in the bill before us reflect this fact.

This bill will indeed get the right balance between the rights of alleged child victims and alleged sexual offenders. Both those parties have rights. This bill will keep child safety paramount, but will not diminish the rights of the alleged offender. It will not erode the presumption of innocence. As the member for Cockburn has stated, the very notion and existence of bail reflects this presumption. What this bill will do is elevate the voices of alleged victims. It will give them a voice in this critical step of the justice process that they did not have before and should not be denied.

I also cannot emphasise enough the traumatic effect of sexual offences on child victims. Those effects are lifelong. At the beginning of this lifelong journey of recovery is the justice process. In this place in the consideration of this bill, we must recognise the traumatic effect that the release on bail of alleged abusers can have on their victims. As the Attorney General has said, it is critical that we emphasise the importance of and seek to mitigate that trauma wherever we can. These reforms seek to go as far as possible to ensure that the vulnerability of child complainants of sexual abuse remains front and centre at each step of the bail decision-making process, without undermining the precepts of our justice system. The value of elevating the voice of child victims to ensure that their voices, the voices of their family and the voices of those investigating these alleged crimes are heard cannot be underestimated.

As I have mentioned, the reforms within this bill can go some way towards the healing process for child victims, because as we elevate the child victim's voice, we also help elevate them from being a child victim to being a child

victim–survivor. I believe that this Bail Amendment Bill 2022 will go some way towards ensuring that child victims, and child victim–survivors, are our priority and remain so. I wholeheartedly congratulate the Attorney General on the development and presentation of this meaningful legislation and commend the Bail Amendment Bill 2022 to the house.

MS C.M. ROWE (Belmont) [6.05 pm]: I, too, wish to make a contribution tonight to the debate on the Bail Amendment Bill 2022, as many of my colleagues have already done. We are privileged in this place that many of our members on the government bench were formerly lawyers, and they have gone through in great detail how this bill will be enacted. Therefore, I do not think it is necessary for me to go into exorbitant detail on the ins and outs of the bill, but I will touch more broadly on some of the proposed reforms and why they have come about.

I wish to begin by taking the opportunity to acknowledge the Attorney General for again bringing another important bill to this place, and one that deals with a matter that I am very passionate about, that being, of course, protecting children, particularly vulnerable children who have been the victim of child sexual abuse.

As many members will be aware, this bill is in response to the terribly tragic death in October 2020 of a child who was aged only 11. At the heart of this bill, it seeks to elevate the voices of children who have been the victim of sexual abuse when considering the granting of bail. All these reforms are geared towards ensuring that child victims of sexual abuse are protected to the utmost when bail applications are considered.

Without getting into the detail of the bill, I would like to highlight some of the examples that were given in volume 3 of the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse. I want to talk about the importance of considering child victims of sexual abuse, because it is very clear when we look at the findings in this report how impactful it is for children who are survivors and how some of these children struggle immensely and in a profound way for the remainder of their lives. I would like to share with the house some of the information contained in the final report. I am quoting directly from the royal commission. The opening comment on page 9, under the heading "Summary", states —

> As a victim, I can tell you the memories, sense of guilt, shame and anger live with you every day. It destroys your faith in people, your will to achieve, to love, and one's ability to cope with normal everyday living.

Further down that page, it states —

> In private sessions and public hearings, we heard many stories of profound and wide-ranging impacts on the lives of victims, in both their childhood and throughout their adult lives.

That is partly why I was moved to make a contribution tonight. We are not talking just about something that happens in ordinary childhood. We talk a lot these days about children being more resilient and learning to go with the rough and tumbles of life. This is a completely extraordinary experience that has far-reaching and devastating impacts in many instances. When we are dealing with a bill that seeks to enhance and strengthen powers to protect really vulnerable children, I cannot speak more highly of such reforms.

I would like to again refer to the final report from the royal commission. It states that child sexual abuse can affect many areas of a person's life. That includes their mental health; interpersonal relationships; physical health; sexual identity, gender identity and sexual behaviour; connection to culture; spirituality and religious involvement; interactions with society; and education, employment and economic security.

I quote again —

> For some victims, child sexual abuse results in them taking their own lives.

There could not be anything more dramatic and more tragic than that. I continue to quote —

> The impacts of child sexual abuse most commonly described in research and in our private sessions and public hearings were mental health impacts. Of the survivors who provided information in private sessions about the impacts of being sexually abused, 94.9 per cent told us about mental health impacts. These impacts included depression, anxiety and post-traumatic stress disorder … other symptoms of mental distress such as nightmares and sleeping difficulties; and emotional issues such as feelings of shame, guilt and low self-esteem. Notably, mental health issues were often described as occurring simultaneously, rather than as isolated problems or disorders.

I think the other element that was incredibly disturbing to read not only in news articles but also throughout this report is how oftentimes the profound impact on that person becomes intergenerational trauma. That is incredibly sad. The report refers to how it has ripple effects and found that it can have intergenerational impacts. It can have effects on family life, the ability of families to remain together and, of course, communities; particularly in remote Indigenous communities, these types of events can have huge impacts on the community as a whole. Again referencing the royal commission report, I quote —

> Part of the explanation for the profound and broad-ranging impacts of child sexual abuse lies in the detrimental impacts that trauma can have on the biological, social and psychological development of a child.

> Child sexual abuse can result in profound trauma, affecting the chemistry, structure and function of the developing brain and potentially interrupting normal psychosocial development at every critical stage of a child's formative years.

When we are faced with those findings and that information, right here in this report, it is patently clear that we need such measures in place and enshrined in our legislation to take every step and look at every measure that we can implement to protect children who are victims of alleged sexual abuse. I would just like to quote again. One victim said —

> As a victim, I can tell you the memories, sense of guilt, shame and anger live with you every day. It destroys your faith in people …

Beg your pardon; I think I have already read this one. He continues —

> It has [been] and is an enormous struggle to stay on top of life.

What really struck with me from that quote is those ongoing and pervasive and really strong and powerful emotions of shame that stay with people and that interrupt and interfere with their ability to have functioning lives. It is truly devastating for them. I again quote —

> For many people, these impacts are interconnected in complex ways …

I will quote one of the victims —

> It's not like you can isolate it like – just one organ; not like you've just got kidney damage but your liver is working fine. It's like every part of your person is affected by that [abuse], so it's really difficult to separate out. It's almost impossible to know what could have been if it hadn't been for the trauma, because every part of your being has been affected by it.

I really wanted to highlight those really important comments that are contained within the royal commission's findings in its final report because I think that it is demonstrative of the need for this reform. As I said previously, I wholeheartedly support it and absolutely commend the work of the Attorney General on bringing yet again another important bill to the house. I think it is a serious bill and I absolutely support it, so thank you very much, Attorney.

MR J.R. QUIGLEY (Butler — Attorney General) [6.15 pm] — in reply: I rise to thank members for their contributions on the Bail Amendment Bill 2022 and to comment on some of those contributions. I will start with the member for Moore and note that the opposition will not oppose this bill. He said he took the opportunity to raise certain points and in raising some of those points, referenced answers given to the shadow Attorney General during the consultation process. The member for Moore suggested that nothing had happened on this bill to get it introduced. Of course, this is a hopelessly misleading statement. In the next breath, the member for Moore read out a list of people who were consulted during the preparation of this bill, and they included the heads of each jurisdiction, the Magistrates' Society of Western Australia, the State Solicitor's Office, the Director of Public Prosecutions, Legal Aid of Western Australia, the Commissioner for Victims of Crime and the Aboriginal Legal Service of Western Australia. All this required time to consult, revise, rework and re-instruct Parliamentary Counsel.

We also consulted the authorities in the Northern Territory because the bill includes proposed clauses 3AA and 3AB, which are modelled on sections 24 of its Bail Act. The advisers undertook consultation at officer level with their Northern Territory counterparts and for advice on how the Northern Territory provision is operating in practice. This does not happen quickly. There are elections in other jurisdictions with a change of officers. The advice coming out of the Northern Territory was that the provisions were operating without any identified issues and had been raised by prosecutors opposing bail and the Supreme Court of its own accord. I will come back to this later when I am addressing the remarks of the member for Cockburn.

As I mentioned earlier, an amendment will be moved later, in the consideration in detail stage. It will essentially deal with including new offences in the schedule of soliciting girls for prostitution or soliciting them in public. Before we move to that table, as I said, I propose to introduce two new offences in schedule 2 of the Bail Act, being sections 5 and 6 of the Prostitution Act. Both those offences deal with prostitution involving children and were identified by advisers as suitable for inclusion in the bill during preparation for the debate. I hope that the house and the opposition will support the amendments that stand in my name.

There has been some sad commentary on this bill by the shadow Attorney General—we know what he is like. Hon Nick Goiran is very unreliable and is a friend and supporter of Mr Palmer. In his press release, which was referred to by the member for Cockburn, Hon Nick Goiran said —

> It is difficult to avoid the conclusion that had the Attorney General resisted being embroiled in the pointless ego game between the Premier and a billionaire, he would not only have avoided a finding of unreliability, but he would have had the time to consult with stakeholders and deliver sweeping reform —

Of course, he would say that in relation to this bill, because he is a friend of Mr Palmer. We all remember it was Hon Nick Goiran who sought to delay the passage of the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement

Amendment Bill and further endanger the state of Western Australia being liable for a claim of $30 billion. Hon Nick Goiran sees the Premier of Western Australia resisting Mr Palmer's outrageous claim on this state as an ego game and attributes this in some way to non-consultation on the bill. It is an appalling performance by Hon Nick Goiran—absolutely appalling. He knows there were extensive stakeholder consultations—absolutely extensive. I will go through the list again. There was consultation with the court and tribunal services division of the Department of Justice. There was consultation with each of the heads of jurisdiction, being the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Chief Magistrate and the President of the Children's Court. There was consultation with the Magistrates Society. There was consultation with the State Solicitor's Office, which appears on so many matters for the state. There was consultation with the Commissioner for Victims of Crime. There was consultation with the Department of the Premier and Cabinet. There was consultation with the Director of Public Prosecutions. There was extensive consultation with the Western Australia Police Force; consultation with the Legal Aid Commission of Western Australia; consultation with the Northern Territory Department of the Attorney-General and Justice, as previously mentioned; and consultation with the Aboriginal Legal Service of Western Australia. But the shadow Attorney General, being far less than honest and very much the hypocrite, says if I had not been involved with the Premier in resisting Mr Palmer's claim for $30 billion against the state taxpayers of Western Australia, I would have had the time to consult. He shreds his own credibility—the little that he has amongst his fellows in "The Clan" and members of the "Black Hand Gang" who have been identified as corrupt and are on charges. He shredded the morsel of credibility he had, even amongst that discredited group.

He said that "sweeping changes were promised"—and sweeping changes are delivered. But someone of Hon Nick Goiran's somewhat limited vision would think sweeping changes involved tomes of legislation—pages and pages. Sweeping changes can be effected by economic clauses, well drafted and well thought through; and they were and have been as will be demonstrated in consideration in detail. For example, we can see in the bill six pages of amending clauses inserted by clauses 4 through to 9. I will hold up the blue bill for the chamber. What we will strike out in schedule 1, part C, clause 3A, is about half a page in length and simply states —

> … the judicial officer or authorised officer shall have regard to the following matters, as well as to any others which he considers relevant —
>
> (a) the nature and seriousness of the offence or offences (including any other offence or offences for which he is awaiting trial) and the probable method of dealing with the accused for it or them, if he is convicted; and
>
> (b) the character, previous convictions, antecedents, associations, home environment, background, place of residence, and financial position of the accused; and
>
> (c) the history of any previous grants of bail to him; and
>
> (d) the strength of the evidence against him.

That has been replaced by what is now in new clauses 3, 3AA and 3AB. We will deal with these in detail, but they are significant and far reaching. In addition to the requirements of the clause I have read out, new clause 3AB deals specifically in the cases of sexual offences against child victims in circumstances in which the accused is himself or herself not a child. Proposed clause 3AA(2) reads —

> In considering … whether the accused, if not kept in custody, may endanger the safety or welfare of the child victim, the judicial officer or authorised officer must have regard to matters mentioned in subclause (3).

None of this is mentioned in the clause I read out before.

Hon Nick Goiran is most disingenuous in his assertions in his press release and in the notes that he has handed to the hapless member for Moore to read in this chamber. Proposed clause 3AA(3) sets out the matters that are to be considered by the court or the authorised officer —

> (a) the age of the child victim;
>
> (b) the age of the accused;
>
> (c) whether the child victim is in a family relationship with the accused;
>
> (d) the living arrangements of the child victim and of the accused;
>
> (e) the importance of safety, continuity, security and stability in the child victim's —
>
> (i) living arrangements; and
>
> (ii) family and community relationships;
>
> (f) the physical and emotional wellbeing of the child victim.

This is all new. It will be mandated that the court or the authorised officer must take these matters into account. Hon Nick Goiran in his disingenuous press release and in the silly notes he must have passed to the member for Moore mentions none of this.

Then we come to proposed clause 3AB, which states —

(1) This clause applies if —

(a) a relevant offence is a sexual offence against a child victim; and —

The conjunctive —

(b) either —

(i) the child victim expresses concern to the prosecutor that the accused, if not kept in custody, may endanger the safety or welfare of the child victim; or

(ii) a family member of the child victim or a police officer investigating the relevant offence informs the prosecutor that the child victim has expressed that concern;

They will have to do that now. They will have to give the child's anxiety and concerns voice during the bail consideration.

Proposed clause 3AB(2), which will be mandatory, states —

The prosecutor must —

Under the Interpretation Act, that is mandatory —

inform the judicial officer or authorised officer about —

(a) the child victim's expression of concern; and

(b) so far as practicable, the reasons for that concern.

Proposed clause 3AB to be inserted concludes —

(3) In considering under clause 1(a)(iii) whether the accused, if not kept in custody, may endanger the safety or welfare of the child victim, the judicial officer or authorised officer must have regard to that information.

They must have regard. The genesis of this chamber's and this government's concern was when a child victim seriously self-harmed because she was afraid that the perpetrator who had been admitted to bail lived in the same town. None of her concerns were put before the court. As I said before, this is a really significant change by giving a statutory mandate to child victims. If during an interview with child protection officers or police they disclose or voice concerns, it will be mandated that those concerns have to be put before the court. The hapless Hon Nick Goiran would have it that these reforms are underwhelming. "Underwhelming" is the word he used. He does not put any value on or have any concern for the voice of the child victim. He said this legislation is nothing and it will not do much more than codify the existing practice. Nothing could be more misleading than the statement by Hon Nick Goiran of the other place. It was deliberately misleading. When Liberal Party members were in government, they did not do anything like this. They did not reform like this. All they can say is that this legislation does not require mandatory denial of bail when there is a child victim. Members on the government side of the chamber, including the members for Cockburn, Kalamunda, Victoria Park, Mount Lawley and others, have all spoken to the presumption of innocence—that golden thread that runs through our nation's criminal law that a person is presumed to be innocent until proven guilty beyond reasonable doubt. There must be a balance. In the time between when the person is charged and faces trial, during which the presumption of innocence runs, what happens to the person? We are opposed to mandatory denial of bail because we do not know all the circumstances. We do not know whether the child is concerned, or whether it is a situation of pending danger. We have introduced into this Parliament a bill that will mandate that the court or the authorised officer is told of the child's concerns. The provision introduced by proposed clause 3AA will mandate —

… if not kept in custody, may endanger the safety or welfare of the child victim, the judicial officer or authorised officer must have regard to the matters mentioned in subclause (3).

Proposed subclause (3) adds that the court must have regard to certain matters. In the case referred to, there is no evidence that regard was given to any of these matters —

(a) the age of the child victim;

(b) the age of the accused —

There was a disparity of 40 or 50 years in that case —

(c) whether the child victim is in a family relationship with the accused;

(d) the living arrangements of the child victim and of the accused;

(e) the importance of safety, continuity, security and stability in the child victim's —

(i) living arrangements; and

(ii) family and community relationships;

(f) the physical and emotional wellbeing of the child victim.

Those mandated criteria are new to the legislation. Hon Nick Goiran in his desire to attack this government in a way that is dishonest has, himself, no regard to those matters set out in the bill—no regard at a personal level. He puts politics above the welfare of and consideration for the young victim's family. I say that because he named the child victim in his press release. That caused our office to contact Hon Nick Goiran to point out that there was a suppression order. It was not a widely published suppression order, so he might not have known about it, but we pointed out the suppression order. The court said that this child is not to be named. But anyone can print out the press release from the Liberal Party's website now, so the shadow Attorney General remains in wilful contempt of the court.

Mr D.A.E. Scaife: And so is the Liberal Party—the whole Liberal Party.

Mr J.R. QUIGLEY: The whole Liberal Party is in contempt of the court. Those members can no longer put their hand on the banner of law and order; they dropped that years ago. The Liberal Party remains, as of today, knowingly in contempt of the District Court. The court could understand a mention of a person's name when they had no notice of a suppression order, but the Liberal Party was given specific notice of it. Having received specific notice of it, the member then put out a press release drawing back the name, but keeping it on the website, and the Liberal Party keeps it on the website. That is a deliberate contempt. That is not a contempt done by mistake or in ignorance. They do not care about the welfare of the child's family. They do not care about the welfare of the child victim's siblings. All they care about is trying to attack this government when it is doing its best to protect child victims.

We are doing good with this bill, and I know we are doing good because of the feedback that we have had from none other than the Chief Justice, the Chief Judge, the Chief Magistrate and the President of the Children's Court. We know that we are on track. We know that we are doing good, but all that Hon Nick Goiran does—I must confess that I have trouble with the honorific, but I realise that a rule of this chamber is that I must address him as "Hon Nick Goiran"—is to deliberately keep his party in contempt of the court. He remains in contempt, having been put on notice of the suppression order to protect the family. He does not care a whit! He has been told about this, but he does not care a whit. He then has the hypocrisy to put out statements with headings such as "Unreliable Attorney General's Bail Bill fails victims" because I made a mistake in giving evidence about when I found out about something—whether it was on the twelfth or the eleventh—and the judge said, "Well, he's unreliable because he said the twelfth and he had to come back and say the eleventh." The judge described that as, whilst unreliable, a storm in a teacup! It had no bearing on the case or the litigation at all. It was not like the mistake that was made in the chamber by the member for Moore earlier today, which was pointed out by the Premier.

Mr R.S. Love: I've actually checked the *Hansard*, so I think the Premier's response wasn't right in what he said. But, anyway!

Mr J.R. QUIGLEY: Sorry, I missed that under your mask, member for Moore.

Mr R.S. Love: I took my mask off to speak, but I actually did check the *Hansard* from that contribution, and I did not say what the Premier said I said.

Mr J.R. QUIGLEY: Yes, you did! We will check that again, and during consideration in detail, we will find out whether you have made a further mistake, and the pressure for you to resign your position will become all the more imperative!

Mr P. Papalia: Or whether you changed the *Hansard* from what you actually said!

Mr J.R. QUIGLEY: We will listen to the tape.

We digress a little. As the member said, he will leave it to Hon Nick Goiran to carry the weight of the criticism of this bill in the other place. As I am pointing out, Hon Nick Goiran's criticisms have so far been disreputable and dishonest. He has maintained his contemptuous behaviour by keeping on his and the Liberal Party's websites that which the court says is to be suppressed—they publish it to the world. I can understand if someone does not "know" about a suppression order and innocently, and without intent to break it, mentions a name. That is one thing. But to have notice of the suppression order and then wilfully proceed in the way that Hon Nick Goiran has proceeded is dangerous to our community—dangerous! Can members imagine him as the Attorney General—a danger!

Mr R.S. Love: Can I ask when you gave notice of that suppression order? When did you give him notice that that suppression order was there?

Mr J.R. QUIGLEY: As soon as we saw this!

Mr R.S. Love: What date was that?

Mr J.R. QUIGLEY: If the Deputy Leader of the Opposition asks me about that tomorrow, I will give him the exact date, okay? I will bring in the email. We are not here to try him—yet! It will be a matter of reference, knowing that the Liberal Party still publishes this victim's name. Of course the Director of Public Prosecutions will have to look at that conduct. Of course they do! It is not just his misleading statements about this bill; it is his very conduct.

Another matter that reveals Hon Nick Goiran's problematic, if not utterly disingenuous, behaviour is when he said in his press release that the bill will not do much. I draw the chamber's attention to the amendment to schedule 1, part C, clause 4, which for the first time will put in the act —

> (1) Subject to clauses 3A, 3C, 3D, 3E and 3F, the grant or refusal of bail to an accused, other than a child, who is in custody waiting to be sentenced or otherwise dealt with for an offence of which the accused has been convicted shall be at the discretion of the judicial officer in whom jurisdiction is vested, and that discretion —

We were going to add —

> shall be exercised having regard to the questions set out in clause 1 as well as to any others which the judicial officer considers relevant.

However, we have taken that out and will instead insert —

> … having regard to … the following —
>
> (a) the fact that the accused has been convicted of the offence —

If he is a convicted person, the presumption stops —

> (b) the probable method of dealing with the accused for that offence and for any pending offence;
>
> (c) the questions set out in clause 1;
>
> (d) any other considerations that the judicial officer considers relevant.

This pertains to those offenders who have already been convicted. This wording was not in the Bail Act. I can remember some infamous cases. I am just trying to think of the accused's name, who had been granted bail, pending sentence, and did a runner. He had been convicted of the offence and would inevitably end up with a term of imprisonment, but between conviction and the striking of the sentence, he was granted bail and then did a runner, and the police and the community were put to the expense of chasing him down. The member for Moore said that in this chamber, the bill will be supported; I do not know what will happen in the other place. I expect that it will be supported by a majority, but not by Hon Nick Goiran, who virtually is saying that this bill is smoke and mirrors and does not achieve anything.

A lot of work has gone into striking a balance, just as a lot of work went into the Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020, when the friend of Clive Palmer, Hon Nick Goiran, did everything he could to try to stop the passage of that bill in time to defeat the arbitration by moving it off to a committee inquiry to attempt to slow it down to keep the window of opportunity open to Mr Palmer to lift $30 billion out of Western Australian coffers. All Hon Nick Goiran said is that if the Attorney had not been involved with the Premier in resisting this, he would have had time to confer with stakeholders. Hon Nick Goiran knew before he constructed this deceitful press release that we had consulted with stakeholders, including himself. We know that because the member for Moore in his address to the chamber—I have already thanked the member for indicating the opposition is supporting the bill—read responses provided to the shadow Attorney General. He said that the consultation included heads of jurisdiction, the Magistrates Society of Western Australia, the State Solicitor's Office, the Director of Public Prosecutions, Legal Aid Western Australia, the Commissioner for Victims of Crime and the Aboriginal Legal Service. The member for Moore read all that from a response given to the shadow Attorney General. When Hon Nick Goiran constructed this deceitful press release, he already knew. We know that beyond a reasonable doubt because the member for Moore gave him up by reading the responses of the people who had been consulted. That is scandalous. What Hon Nick Goiran put in this press release is scandalous. Not only is he deceitful to the public of Western Australia when he says the Attorney General would have had the time to consult stakeholders and deliver sweeping reform as a priority, he knew we had, but he wanted to deceive the public of Western Australia by saying that this bill had been constructed by the McGowan Labor government without consulting people—the stakeholders, the courts, the prosecution service and legal aid. He did not want the public to know that. He was just deceitful. It is scandalous.

He has kept on the Liberal Party website, in contravention of the suppression order of which he has full knowledge, the victim's name. How more contemptuous of a court, of an independent court, could a member of this Parliament be, to act in wilful contempt of the order? How responsible is the Liberal Party in maintaining that there when it knows about the suppression order from the shadow Attorney General? Moreover, the shadow Attorney General knows that we have considerably added to schedule 2 of the Bail Act to include offences that have not been in schedule 2 before, being the "Occupier or owner allowing a young person on the premises for unlawful carnal knowledge" and "facilitating sexual offences against a child outside WA". There are about 33 more—I might have counted them wrong; it might be 30 or it might be 33—new offences in schedule 2 that the court must take into account because of our legislation when considering an application for bail in a child sex offence.

The other thing I want to say is that it is all well and good for the opposition to say that this does not do much more than codify the law as it is already, but the bill sets out what a court or authorised officer must take into account.

I have gone through that already; however, I want to address the concept of "authorised officer". Although magistrates are legally trained and might read this, the authorised officer is a sergeant or above in charge of a lock-up. We have no expectation that sergeants will be across all case law and across all considerations, so we have codified it for them and what they must—not "shall"—take into account, because these authorised officers can also grant bail. If they refuse to grant bail, they will have to bring them before the court at the first available opportunity. When a person is arrested by a detective or police officer for a child sex offence and they come before the sergeant, the Bail Act mandates the criteria that must be taken into account, including finding out from the officers and interviewing officers whether the child has any concerns, fear or apprehension for his or her safety.

We will deal with more of this tomorrow during consideration in detail, when members will perhaps get an opportunity to deal with more of the Liberal Party's contempt and the contempt with which the shadow Attorney General holds orders of the District Court. We totally disregard the disreputable shadow Attorney General's criticisms. The contemptuous criticisms will be disregarded. May it please you, Madam Acting Speaker.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

House adjourned at 6.58 pm