

PROPERTY LAW (MORTGAGEE'S POWER OF SALE) AMENDMENT BILL 2009

Second Reading

Resumed from 17 March.

HON MATT BENSON-LIDHOLM (Agricultural) [10.07 am]: I welcome the opportunity to continue my discussion of the Property Law (Mortgagee's Power of Sale) Amendment Bill 2009. Last week I made a number of observations, as did my opposition colleagues, about the difficulties that Western Australian householders are facing in dealing with mortgage repayments and the many other costs and charges being foisted on them. The point was made that WA currently ranks as the worst state in the nation for mortgage delinquencies. There is no doubt whatsoever that recent interest rate rises are a significant part of that problem, but, as I will indicate in a while, the links to interest rates, and state governments for that matter, are still there despite the fact that obviously it is very much a federal issue.

The development of a two-tier economy in the wake of the global financial crisis and an apparent end to the property boom, particularly in Western Australia, are further complications to the way the state has been able to address its financial management, or mismanagement—more about that shortly. I make the point that there are revenue challenges facing the state government. GST returns is certainly one issue. However, members opposite will surely realise that back in the late 1990s it was indeed the current Premier and a previous Premier, Richard Court, who orchestrated our GST deal. It was a fairly poor performance by those two gentlemen. The Treasurer is now facing some significant problems relating to GST returns, spending and, indeed, debt. There is the prospect that very shortly, within the next year or so, we will be required to service something in the order of a \$20 billion debt. That debt is currently approaching \$14 billion; I remind members that under the previous Labor government the debt was a mere \$4 billion, which is significantly less than what we are facing today.

Because of those sorts of debt figures, public pressures on the Western Australian budget are growing daily. I put it to members that big-picture infrastructure items and projects such as the \$1.2 billion children's hospital, Oakajee—who knows where Oakajee is going in terms of the impact it will have on the public purse—the Perth Waterfront project, a possible replacement for Subiaco Oval, and the Bunbury to Albany gas pipeline, can do only one thing to the state budget, and that is place enormous pressure on the capacity of governments to pay for such things. The obvious response will be that the capacity to pay for them will be placed fairly and squarely on ordinary, everyday Western Australians, to make sure that the government of the day can sustain those sorts of projects. The message is quite simple: Colin Barnett's reckless approach to spending will result only in more pain for Western Australian households.

Hon Michael Mischin: Hon Ken Travers was arguing a year ago that we ought to have stadia built.

HON MATT BENSON-LIDHOLM: I will leave those sorts of discussions; stadia can be funded by selling off assets, but, unless I am mistaken, the state government is currently looking at spending more money than is necessary on the area around Burswood for a new stadium. If that is the case, it is certainly not the most cost-effective means of establishing a replacement for Subiaco Oval. I will not go down the path of arguing that, but it is certainly well and truly documented that a project to develop that part of Perth is the least cost effective of all the suggestions thus far. If we can save there and still provide some sort of cost-efficient stadium, it would have to be a better way of going about it than what has been suggested thus far, which is the Premier's ideal project at this time.

Western Australians are going to end up paying more and more, with bigger and bigger increases in household bills. I do not need to emphasise any further to members opposite the significant impact on Western Australian households of these sorts of increases in household costs and charges for electricity and water. The question becomes: who is going to pay for the uncoded and unbudgeted items that the government has talked about? Obviously, mums, dads and families across Western Australia are going to pay through further hikes in household costs, such as electricity, water, sewerage, motor vehicle charges and even things such as landfill levies, which came to our attention late last year. This all amounts to significant increases in mortgage stress. At the end of the month, the volume of disposable dollars in people's pockets is simply going to decline. I also make the point that ratings agency Fitch Ratings has shown that Western Australia is the worst state in Australia for late mortgage repayments, as more and more people face the threat of losing their home.

To sum up the issue of mortgage stress, there are a number of causes. I have already mentioned interest rates. Although that is largely a federal issue, state governments going into debt certainly cause significant problems in association with a crowding-out effect on financial markets. That can lead only to further increases in interest rates. With state governments going into significant volumes of debt to the tune of up to \$20 billion, there must necessarily be an impact upon federal interest rates.

Unemployment levels are certainly on the increase; the global financial crisis may be entering a new phase. The Japanese economy is certainly going to suffer for some time after recent events; there will be impacts from issues such as debt in Europe, which continues to be a big cause for concern. The Chinese economy appears to be slowing down, and the impacts in the United States will likewise perhaps be cause for concern for some time yet. In respect of moving Western Australia forward, these are factors that will impact significantly upon our capacity to sustain debt levels and increase investment opportunities.

With the massive increases in state costs and charges and the unfunded, uncosted infrastructure projects on the government's agenda, the reality for households in Western Australia is that they will increasingly face the prospect of less and less disposable income, which will impact significantly on their capacity to own their own home. Rather than the Australian dream, I dare say it may be becoming the Australian nightmare.

The thrust of the bill is quite simple: it affords security and some level of certainty to people, and it is reasonable. Banks have certainly been supported by the Australian taxpayer over the past few years. The bill is good for social cohesion and the benefits will significantly outweigh the costs in terms of the smooth running of society. The bill simply requires a mortgagee or chargee, in exercising its lawful power of sale, to take some sort of reasonable care to ensure that the property in question is sold for something approaching its market value. It is a simple sort of bill in that respect; I think that was the point I made last week. It is the sort of bill that should get support from around the chamber; however, that more than likely will not happen for the reason that the costs and charges faced by Western Australians will simply increase. That is the end result of current government economic policy. I put it to the government that the sorts of situations that prevail are the direct result of very poor economic management and a blow-out in state debt, which needs to be addressed, and addressed urgently.

HON HELEN BULLOCK (Mining and Pastoral) [10.17 am]: Last year I was dragged by a friend of mine to attend a couple of real estate auctions that were held on behalf of a bank. These properties had been repossessed by the bank from people who could no longer afford to pay their mortgage repayments. This friend and I used to work together. After I left, she got a promotion and just lately I have found that she has developed the expensive hobby of going around real estate auctions, trying to pick up bargains. The auctions that she focuses on have one thing in common: that is, they are all properties that have been repossessed by banks. She told me that it is in the banks' interest to recoup enough to recover the amount of debt that is owing to them. That is hardly new; we have all heard about that. Banks, somehow, have a bad reputation; I suppose it is to do with the things they have done in the past to gain that reputation, but I am sure that most banks, most of the time, act ethically when it comes to dealing with repossessed properties, to ensure that the properties are sold at, if not above, the market value.

This bill will make sure that all banks and financial institutions in Western Australia act ethically all the time when dealing with repossessed properties. We live in an interesting time. The real estate market has dropped by more than 15 per cent in value in the past year. Perth has recorded 24 per cent fewer property sales than in the previous year. This decline follows the unsustainable growth from late 2009 through to early 2010, when the real estate market's performance was strangely strong. This unprecedented growth worried the Reserve Bank of Australia and triggered five consecutive interest rate rises leading up to Christmas 2010. These interest rate rises resulted in escalating property repossessions. Let me quote a few lines that I have copied from *WAtoday* dated 21 December 2010, which reads —

... a disturbing flip-side to the state's booming economy has been revealed by new data that has branded West Australians the worst performers in Australia when it comes to repaying their mortgages. It is the first time the state has finished last in the property data, released by ratings company Fitch in its RMBS Australia Special Report.

This is a parlous situation. Interest rates certainly have been blamed for the poor results in the property market, but there are other facts, which the previous speaker touched on, such as the dramatic increase in household bills in the past two years. This is a great burden on Western Australian families and households. The optimistic view is that the Western Australian economy is still booming, the unemployment rate is on the way down and wages are growing at just above inflation. Based on that, the conclusion has been reached that somehow the real estate market will turn around and we will have nothing to worry about. My experience of the real estate market is that it never turns around as quickly as we expect and somehow it always takes longer than we expect to react to a situation. This optimistic view is not my view of the real estate market. The interest rate certainly is a major factor and has dampened people's enthusiasm for the real estate market. The RBA held off further interest rate increases last year, not because it thinks that five consecutive interest rate increases are enough to slow down our economy but because of the recent natural disasters in the country. That respite is only temporary. Due to the flood damage from the natural disasters, a new flood levy has been introduced. This means that everybody in this country in future years can expect to contribute to rebuilding those affected areas. Some people will have to think about putting amounts of money aside to contribute to rebuilding this country.

Also, the first home buyers' scheme was terminated a year ago. This scheme had a great impact on the real estate market. I can say that it was a major contributing factor to the boom in the Western Australian real estate market. It also had an adverse impact on the current real estate market. One has to say that it is a big commitment for young kids in their mid-20s to go to the bank, to borrow something like \$350 000 and to commit themselves to a loan over 30 or 35 years. If it were my son or daughter, I would probably have to watch my bank account, because if anything happened probably mum and dad would have to contribute to save them from being swamped by the bank.

As we all know, the unrest in Libya and the Middle East has brought a sense of uneasiness and unsettlement in people's minds about the future and what Australia is going to do. Household bills are continuing to rise, although the minister said that in the future household bills will not increase as much as they have in the past two years, but they are still on the rise. Not only that, but petrol costs more now than it did two years ago; it used to be 89c a litre, now it is \$1.50 a litre. Every family needs to take that into account. Entertainment costs have risen. Nowadays when we go out to a movie, it costs probably \$40 for two people to watch the movie, then there is popcorn and ice cream and maybe a quick bite to eat before we go home, which would amount to \$100 for two hours of entertainment during a night out. That is basic entertainment for any family. Can members imagine the cost for a family with two kids or even three or four?

Hon Sue Ellery: If you take three kids, it will cost you \$120—I know; I took my niece and nephews and it cost \$120.

Hon HELEN BULLOCK: I have no doubt about that.

Several members interjected.

Hon HELEN BULLOCK: Let us continue; we all know that, we just do not talk about it.

Food prices are increasing as well. The other day when I was in the supermarket, bananas were \$11.95 a kilogram. I understand that has something to do with the floods in Queensland and Carnarvon.

Hon Norman Moore: It has had a significant amount to do with the Queensland flood!

Hon HELEN BULLOCK: Yes, I understand that; I am not complaining. I just do not buy bananas; that is all.

Hon Norman Moore: I thought you were going to blame the state government.

Hon HELEN BULLOCK: The Leader of the House should not be afraid if he has done nothing wrong!

I understand that the price of milk is on the way down, but drinking more milk is not the solution. I just cannot see that the real estate market will have any reason to pick up in the near future.

The Premier expressed his view on this issue at last week's rally in front of more than 5 000 people. He said that Western Australia is not in a resource boom. When it is the Premier's opinion, I think everyone should take a few minutes to reflect on that. It is quite scary when one reflects on that. If we are not in a resources boom, we will not be able to sustain our current level of growth in the economy without a strong manufacturing industry to underpin our economy. It seems to me that we will soon be stuffed. Not only will the property market be unable to recover, but also it will deteriorate further—if we take into account the Premier's view on this matter—and more and more people will be under mortgage stress. This bill has come into Parliament just in time to prevent future fire sales of properties when people are falling behind in their mortgage repayments. This bill will ensure that banks and financial institutions not only act in their own best interests, but also fulfil their duty of care to those people who face difficult times.

As was mentioned in the second reading speech, similar legislation exists in New South Wales and in Queensland. I understand that this government does not support this bill. I look forward to hearing a sound, good, valid argument for why this government does not support this bill.

HON ED DERMER (North Metropolitan) [10.30 am]: I rise for the purpose of persuading each of my colleagues in the Legislative Council to support the Property Law (Mortgagee's Power of Sale) Amendment Bill 2009. There are occasions when people suggest to me that Liberal Party members of this chamber can be rigid and closed-minded, and I assure people that I am confident that all members of the Legislative Council are open to the persuasive effect of logical argument. Debate on this bill this morning will be an interesting experiment to test whether the members opposite me in the chamber are open-minded and able to see the clear logic of persuasive argument, and for that reason I am confident that we will be successful with this bill. I hope that the suggestions I have received of a certain narrow-mindedness are not true, but we will find out at the conclusion of this debate.

My task of persuading each of my colleagues in the Legislative Council to support this bill is not a difficult task. The task is made much easier by the self-evident quality of the bill. I congratulate Hon Sally Talbot on the work

she has prepared and for bringing this bill to the house. The bill, as suggested by Hon Matt Benson-Lidholm, is not a complicated bill. I would say much of the strength of the bill is in the elegance of its simplicity. It is not complex, it is simple, it is clear and I am sure it will be clear to the judicial authorities in Western Australia in the ultimate, and can be applied with great effect towards achieving a very important purpose.

It is interesting to observe the professionalism of Hon Sally Talbot, whether she is applying her forensic skills to unravelling the not always obvious flaws in bills that are often presented by the government in this chamber, or whether it is in the quality of the work in this bill before us that we are considering today. I am impressed that Hon Sally Talbot is never distracted or in any way discouraged by her temporary condition as an opposition member. I know that she is applying the professional skills now that she will apply when she achieves the status of a minister of the Crown following the next election. She deftly applies herself to her professional duties as a legislator, and this bill is just another fine example of that.

The quality of this bill is even more starkly apparent when we do a compare-and-contrast exercise with the very poor bills that are regularly presented by the Barnett government to this chamber for consideration. I do feel for my colleagues across the chamber. Too often they are giving the thankless task of presenting to the senior chamber poor quality bills, often derived from their colleagues in the Assembly—the junior chamber. It is a very difficult task they have. It is in sharp contrast to the relatively straightforward task that I have today of persuading members to support this bill because of its self-evident quality.

I would suggest in the discussions about the standing orders of the Legislative Council that it is worth considering allowing more time for the non-government parties to present matters, including bills, because clearly we do it much better. The time of the house would be much better spent if we had a larger proportion of the house's hours in a sitting week to present opposition bills. Again, I cite the work of Hon Sally Talbot as a clear example to illustrate my point. I would be happier if, in the limited time available to the Australian Labor Party, there was more opportunity to present bills. However, I am afraid that there are so many errors in the work of the Barnett government that it is also very important that we raise matters by way of motion. I do not know whether I am allowed to talk about our internal meetings, but I will a little.

Several members interjected.

Hon ED DERMER: We sit around at our Labor MLC meetings and agonise over the competing priorities for what we need to do. Many excellent suggestions are made for bills, and Hon Sally Talbot's work is one example. There are also so many problems arising from the poor work of the Barnett government that we have this conflict: do we pursue more of these bills that we should be putting forward for the welfare of the people of Western Australia—as we are reminded by you, Mr President, at prayers every day—or do we focus on the misfortunes of Western Australians arising from the many mistakes made by the Barnett government? It is a dilemma, and we struggle to make the correct decisions. Do we focus on our excellent bills or do we focus on the many mistakes of the Barnett government?

The PRESIDENT: Order! The member has mentioned a couple of things, one about limited time. The member has 39 minutes left and has mentioned focus. In those limited 39 minutes, I would like to hear the member focus on the matter before the house, which is the Property Law (Mortgagee's Power of Sale) Amendment Bill.

Hon ED DERMER: Mr President, I must not be distracted by our limited time. I do take your advice and will endeavour to focus on this bill. However, I thought it was very important to make the point—as I know that standing orders are being considered at this time—that a greater proportion of time invested in the Labor Party with the availability of us having the lead on business would be very helpful to the people of the state for the reasons I have explained. I understand that probably one way we can address that is by doing as well as we will at the next election and, therefore, having a larger proportion of time available for our business.

Hon Norman Moore: So you'll allot more time to the next opposition, will you, than you're getting now?

Hon ED DERMER: It will depend a little on the quality of the opposition. So, we will be watching you, Hon Norman Moore, carefully and will make assessments.

Hon Norman Moore: Ha, ha! I think the quality of the opposition is very evident today, Mr Dermer.

Hon ED DERMER: I do recollect my first term in Parliament when I was part of a very professional opposition. The professionalism of that opposition was evident in the successful election results that followed in 2001 and 2005. I think we are similarly professional in our work now and I expect a significant adjustment to the numerical make-up of both houses of Parliament at the next election.

I have referred to the many errors of the Barnett government and, sadly, many of those errors are creating a significant burden on the people of Western Australia. We only have to look at the extraordinary increases in not only electricity costs, but also water and gas; they are the more obvious ways in which the Barnett government is regularly picking the pockets of Western Australians.

But there are more novel and less obvious forms of deriving more revenue from the people of Western Australia and shifting the burden of the Barnett government's inability to manage its financial affairs onto Western Australians. I recollect reading about the reign of Charles I in an early part of the seventeenth century; his approach to finding novel forms of raising revenue from the population led to a very unfortunate situation. What I see in the Barnett government is a variety of novel—I would say almost unnatural—ways of trying to squeeze money from the people of Western Australia. The effect of these novel ways is to add to the financial burden and financial distress of many Western Australians, and the effect of that is to make the urgency of the bill put forward by Hon Sally Talbot all the greater.

I remember debating the Waste Avoidance and Resource Recovery Amendment Bill in this house, which has now been enacted, sadly. That debate was very ably led for the opposition by Hon Sally Talbot, and she again demonstrated the power of her forensic ability and professional attention to detail. During that debate I remember being shocked that in a field where local government authorities primarily, in Western Australia, had achieved so much in converting waste into commodities—I remember talking to the Mayor of Mosman Park at the time about the work that they were doing to set world standards in converting waste, with all its attendant problems of landfill, into commodities of value—that the Barnett government, instead of encouraging the furtherance of this setting of world-recognised excellent standards in waste avoidance and resource recovery, found a novel way to squeeze money out of the whole exercise. Public servants in the Department of Environment and Conservation, who should have had their salaries paid from normal government revenue by a properly financially administered government, were to, instead, be paid using money derived from the levy that should have appropriately been spent on waste avoidance and resource recovery.

I think the name of that bill was misleading because it suggested a positive assertion towards achieving effective waste avoidance and resource recovery, when, in effect, it achieved exactly the opposite. It was a little Orwellian of the government to put forward a bill to achieve a purpose opposite to that suggested by its title. In that case the title of the bill suggested that it was in support of effective waste avoidance and resource recovery, when, really, its effect was to extract revenue that should have been spent on that very important purpose and use it to pay public servants' wages because the Barnett government was unable to manage its financial affairs in such a way as to ensure that public service wages were paid from the normal revenue, as they should have been. There are many examples of this insidious development of new ways of extracting money and pocket-picking—I do not think sleight of hand is too strong a term to describe the approach of this government—and, sadly, Western Australians are suffering as a consequence.

The Property Law (Mortgagee's Power of Sale) Amendment Bill 2009, ably prepared by Hon Sally Talbot, is designed to alleviate financial pressure on Western Australians and Western Australian families at a time that I believe they will need that alleviation most. I cannot begin to imagine—because I, fortunately, have not experienced it—how horrific it must be to be in a situation of being unable to meet one's mortgage commitments and having the bank take steps to recover its assets by selling the house at a time of diminishing real estate values after a period of struggle in which the situation must have gotten worse, otherwise the person would have met their mortgage costs. This happens every day; we have heard Hon Helen Bullock talk about her observations from having been at real estate auctions and seeing people in trouble. Not only do people lose their home, but also they can end up with a large residual debt from their mortgage. Ending up with a large mortgage and no house to show for it is a very grim situation to be in. It is appalling.

Not only is Hon Sally Talbot a very professional, capable and intelligent woman, but she is also very sensitive to human need, and she has recognised what a very dreadful situation it is for people to be in, to have lost their house while continuing to have a large mortgage. Her natural compassion has led her to put forward this bill for the consideration of this house. Obviously, the bill is put forward with the best of motives—to relieve people's distress when they are most in need.

Several members interjected.

Hon ED DERMER: I fail to understand what is entertaining the Liberal members sitting opposite me.

Hon Simon O'Brien: Well, it's not you!

Hon ED DERMER: No, no.

Hon Simon O'Brien: Spark up a bit, will you!

Hon ED DERMER: I have always held all my colleagues in the chamber in high regard, but we are discussing distress caused in the most difficult of circumstances for Western Australians and Western Australian families, and I think it is deeply disappointing that there is some matter of mirth entertaining members across the chamber.

I will refer to what I believe to be the heart of the bill. I understand that Hon Michael Mischin has a degree of legal training and background, and I remember him—he will correct me if I am wrong—interjecting in the

debate last week to ask how this bill would be of assistance to people in a circumstance of mortgage stress. My academic training is in science rather than law, Hon Michael Mischin, but when I read the bill, with its simple and clear elegance, the heart of how it works was very clear to me. Hon Michael Mischin might like to apply his legal training to explaining, during his contribution to the debate, how I have somehow misunderstood the simplicity of the bill.

Hon Michael Mischin: How does it change the current law? Does it change the current law? Ah, we don't know, do we?

Hon ED DERMER: I confidently believe that what is at the heart of the bill will have a real, positive effect for the Western Australians and Western Australian families who need it most; those who find themselves in a circumstance of having lost their home and having a continuing mortgage debt.

Hon Michael Mischin: How? How will it help them?

Hon ED DERMER: I will be very happy to share that with Hon Michael Mischin if he will be a little patient and observe the standing orders and stop interrupting.

Hon Michael Mischin: I've just been waiting a week, through a lot of speeches, for someone to tell me.

Hon ED DERMER: If he would stop interrupting, he would have the opportunity to listen. It is very interesting to reflect on the tradition of the wise owl.

Several members interjected.

The PRESIDENT: Order!

Hon ED DERMER: The tradition of the wise owl is to have the eyes open and the beak closed. Those who listen will learn, and those who interrupt will learn—because I will insist on teaching them—but it will take longer because the interruptions will delay my lesson. I will share with Hon Michael Mischin—I challenge any member to say that they cannot understand it—the elegant simplicity of this very important bill. I refer to the bill.

Hon Simon O'Brien: We'll be patient. You're reading it for the first time, are you?

Hon ED DERMER: The amendments to the bill.

Hon Simon O'Brien: It starts at clause 1!

Hon ED DERMER: Mr President, it is sad and sorry that members choose to interrupt rather than listen. I have limited time, and I will certainly be asking for an extension if the opportunity arises, but if members were to quieten down and use their beaks a little less and their ears a little more, they would have an opportunity to understand the quality of this bill. The bills states —

Part 2 — Amendments to the *Property Law Act 1969*

3. Act amended

The amendments in this Part are to the *Property Law Act 1969*.

4. Section 59A inserted

After section 59 insert the following section:

59A. Duties of mortgagees and chargees in respect of sale price of land

- (1) A mortgagee, in exercising a power of sale in respect of mortgaged land, must take reasonable care to ensure that the land is sold for —
 - (a) if the land has an ascertainable market value when it is sold — not less than its market value; or
 - (b) in any other case — the best price that may reasonably be obtained in the circumstances.

I have shared the core of the bill with the house. That would not be an onerous requirement on the banks; it would be a reasonable requirement for them to take care to ensure that a better return on a property is achieved rather than one that would be achieved if reasonable care was not taken and the objective was to sell the property as quickly as possible, rather than to achieve a reasonable market price.

I would like all members here to share as best they can an understanding of the circumstances of the Western Australian person who, after dealing with 46 per cent increases in their power bills over the last two years and after dealing with other financial stresses—not all of which can be directly attributed to the Barnett government, but many of them can be—find themselves, despite their best endeavours, unable to meet their mortgage

payments. The banks, understandably, because they also have their assets to protect, take steps to sell the property. Any sense of mercy realises the importance of making sure that the sale of a property is conducted in such a way that reasonable care is taken to ensure the best possible price, in keeping with market expectations at the time. That is the heart of the bill, as I understand it. Is that correct, Hon Sally Talbot?

Hon Sally Talbot: Yes, it is.

Hon ED DERMER: At a time of terrible stress this bill would offer some relief. At a time when the people concerned have ended up with a mortgage but no house to show for it and will need every last asset they can gather to rebuild and pull themselves up by their bootstraps, this bill is designed to ensure that reasonable steps are taken to get a reasonable price for the sale of their property. That is extremely important. It is not a matter for mirth. It is not a matter that puts any unfair burden on the banks. It certainly does not put an unfair burden on anyone else, but it is extremely important to Western Australians at the time of their most heightened distress. I am very disappointed if any member of the senior chamber giggles and laughs and smirks rather than facing up to the reality of their responsibilities, realises the importance of this bill and wholeheartedly supports it.

The purpose of the bill is clear to me. It should be very clear to anyone with legal training. Its purpose is to protect people at the time of their most dire need. “Most dire need” might be exaggerating slightly because worse things can happen than financial stress, but the bill is for people at a time of very serious need. That is its purpose. It would be a step in the right direction if members of parties who are associated with this government and its unfortunate habit of shifting the cost burden to Western Australians who are not really in a position to fight back and argue—except at the election—but who in the meantime will need to live with the burden of these types of policies that make their financial situation worse. In Hon Sally Talbot’s bill there is a simple and elegant way of alleviating their situation by making sure that when a property has to be sold, a reasonable return is received so that the person who is forced into that situation will have a lesser debt, which will help them in the process of recovering their circumstances and pulling themselves up by their bootstraps.

There is no sensible reason for opposing this bill. We are yet to hear a contribution from the other side of the chamber. The reason we have not heard a contribution is that there is no sensible reason for opposing this bill. All we get is childish sniggering from time to time. That is not an excuse for a contribution. In the absence of a reason for opposing it, I expect everybody in this chamber to support the bill. It is driven by compassion, it is elegant, it is effective and it warrants support.

It is interesting to note that the bill has a 2009 date on it, a time when internationally the global financial crisis was more severe in effect than it is today. It is interesting to look at the origin of the global financial crisis, when mortgages for housing purchases in the United States of America were given to people who ultimately were unable to afford to make the payments. The law in the United States of America is not something that I have a particular knowledge of, but I understand from what I have read that many of these mortgages for houses in America were such that if people found they were unable to make the payments, they did not continue to have the burden of debt on the money they had borrowed; they quite simply surrendered the property. The nature of property markets is such that if many houses are surrendered in the same area at the same time, it has the consequence of lowering the market value of most of the houses in the area. Most of the actual burden of financial risk in America, although it is very unfortunate for people to have to surrender their houses, rested with the banks. That is the state of the law and the nature of the contracts that were widespread in the United States of America. The banks that had made what ultimately turned out to be very poor investment decisions lived with the consequences, and the interrelationship between banks internationally led to difficulties for other banks. Banks they had invested in got into trouble, and that had a knock-on effect on the other banks.

It is very different in Australia. Here if someone cannot pay their mortgage, it is still their debt. If someone is forced, having no other option, to sell their property to address the mortgage, and that property ends up selling for less than the total of the debt, they have an ongoing mortgage without a home to show for it. The elegant simplicity of the bill before us is very clear in the words that I shared with the house, which I hope all members can understand. They probably will if they stop and listen. All the legislation is designed to do is put an onus of care on the bank in disposing of the property to ensure a reasonable market value. Obviously, every extra dollar achieved in the sale of the property is a dollar less debt for the Western Australian family concerned.

My colleagues have shared many examples of how financial stress is mounting in Western Australia. My leader, Hon Sue Ellery, explained it is the accumulation of all these various financial stresses that have a compounding effect. In her very insightful and informative comments she quoted the Supreme Court as an authoritative source. I thought that was interesting to hear. She explained in some detail the concern of particular families. It is all very well for us to talk in the abstract in Parliament House. I think it is very important when members such as Hon Sue Ellery make a contribution that shares with us the real impact of financial stress on real people.

As I become concerned to think about those terrible circumstances, not only the quality of Hon Sally Talbot's bill but also the urgency of it being enacted are emphasised. I think it is very unfortunate that we are debating in 2011 a bill that Hon Sally Talbot put together in 2009. That emphasises the point I made earlier and perhaps more clearly illustrates how I think more time invested by the house in dealing with matters arising from Australian Labor Party members would prove of greater value to the people of Western Australia.

I would like to refer for a moment to the excellent speech that Hon Sally Talbot made in introducing the bill to the house. Sadly, it was quite some time back, as it was a long time before we had the opportunity to consider this excellent bill. Her speech explained that the purpose of the bill is to protect the financial interests of people in the Western Australian community who find themselves unable to maintain repayments on their home mortgages. Sadly, she said that many homeowners are doing it tough at this time. Unfortunately, since that time, I think the problem has worsened rather than eased.

Hon Sally Talbot: It has indeed.

Hon ED DERMER: Hon Sally Talbot makes clear in her second reading speech that her thoughts turned to the growing number of people in our community who are suffering mortgage stress. She went on to define it, albeit crudely, as occurring when more than 30 per cent of a person's net income goes towards meeting their mortgage repayments. That is interesting. It is a way of defining mortgage stress. Often in law-related matters, including economic science, we look to definitions for the purpose of assisting discourse and consideration. But by their nature these definitions are arbitrary. We talk about 30 per cent of a person's net income meeting mortgage repayments, and that is seen as a stressful burden and difficult to meet as a proportion of a person's income, given the other costs entailed in life. When we consider the extra—the novel, the often, I think, underhanded fund-raising impositions made by the Barnett government—that means that Western Australians find it more difficult to meet the other 70 per cent of costs on which they have to spend their money, whether it is on entertainment such as a visit to the movies or on seeking relief from daily stress by attending the football. We recently debated the endeavour by this government to extract money from the community in a novel way, by charging organisers of sporting events with attendances of more than 5 000 people for the service of police officers, which we should all expect to receive regardless. What I am getting at, members, is that if it is generally understood that a person is stressed by having to spend 30 per cent of his income on repaying his mortgage, I believe that that stress is even more severe when many other costs in life are increasing and putting greater stress on how they have to spend the remaining 70 per cent of their income. If under normal circumstances it is regarded as unsustainable for people to spend 30 per cent of their income on their mortgage, how much more unsustainable is it for them to have to spend that 30 per cent on their mortgage when so many other basic costs, including electricity, water and gas, are increasing. That is on top of the effects of the Police Amendment Bill, which we dealt with recently, to enable the cost of fundamental police services that we all as citizens of the state should expect as a matter of course, to be paid by event organisers. That, obviously, will be passed on through the cost of tickets people buy to attend the functions.

Hon Sally Talbot has a habit of thoroughly researching her material, and that was evident in her second reading speech. She shared with us the following interesting information —

On 25 November 2008 the Fitch report on bloomberg.com noted that the performance of mortgages in Western Australia appears to be deteriorating rapidly. The report titled "Fujitsu Anatomy of Australian Mortgage Stress: February 2009 Stress-O-Meter Update." Estimated that 19.2 per cent of households in Western Australia would be suffering from mortgage stress by September 2009, an increase of 9.3 per cent on the February figure.

I remind members that these are figures from 2009. I will listen very carefully to Hon Sally Talbot's response in the final stage of this second reading debate on this important bill. I expect she will give us more updated figures. I fear that those updated figures will indicate that a more severe circumstance is causing stress to a larger proportion of Western Australia's population than when she first read the second reading speech and referred to those 2009 figures. I hope that that is not the case but I fear that it may well be. Each time I see the Barnett government shift the cost of its own inefficient management of the state's finances onto other people through often novel ways of extracting money, I fear that the stress of not only the 30 per cent upper limit manageable mortgage component, but also many other aspects of the cost of life from every direction will add to that pressure. I fear that it is getting to be a stress of great magnitude for many Western Australians who are in danger of losing their homes. I hope that any sense of compassion and mercy will lead members of this house to support Hon Sally Talbot's bill, which, at the end of the day, in its elegant and effective way, will achieve a greater return on a forced mortgage property sale. That is very important for the people concerned.

Hon Michael Mischin interrupted a lot of speakers last week, as he did again today, by disorderly interruption. As I understood his comments, he said he did not understand how the bill would alleviate people's

circumstances. I hope he has been listening this morning and has listened to each of the people who have spoken so far and understands the elegant, simple and effective nature of the bill before us.

Hon Robyn McSweeney: Do you remember the interest rates under Mr Keating and all those people who lost their houses?

Hon ED DERMER: Hon Robyn McSweeney raises an interesting point.

Hon Sue Ellery: This bill might have helped them.

Hon ED DERMER: I am sorry —

The PRESIDENT: Order! Hon Ed Dermer does not like to be interrupted, so let him continue.

Hon ED DERMER: Mr President, I would be delighted to deal with interjections if I had unlimited time. If Hon Robyn McSweeney has indicated that she is intending to move an extension of my time, I would be very happy to deal with interjections.

The PRESIDENT: I will not allow her to interject, so you can continue your comments.

Hon ED DERMER: I am disappointed, Mr President, but it is a disappointment I will live with.

Hon Norman Moore: We'll give you an extension. How long do you want?

Hon ED DERMER: I will have as much time as the Leader of the House is prepared to give. A good 15 minutes would be fine.

Hon Norman Moore: The longer you talk, the less chance the bill has of being passed, of course.

Hon ED DERMER: I am doing my best to be persuasive. I hope I am using each of these minutes in an endeavour to persuade members. It depends, of course, on the degree to which members around the chamber have narrow or closed minds.

Hon Sally Talbot interjected.

Hon ED DERMER: There are none so deaf.

Hon Norman Moore: You are extraordinarily persuasive; that is why you can have another half an hour if you need it.

Hon ED DERMER: I am happy to take up that offer; it is a generous offer. I hope the Leader of the House's mind is as open to the merits of the bill as it is to the use of the time of the house.

I was fascinated to listen to Hon Ljiljana Ravlich and her clear description of the —

Hon Robyn McSweeney: "Fascinating" is not a word we use.

Hon ED DERMER: If members in this chamber do not share my excellent judgement of the quality of the speeches I listen to, that is a matter of disappointment for them. But I wish they would keep their disappointment to themselves and not feel compelled to interrupt me with their own inability to appreciate the excellent descriptions of the nature of the universe we get from Hon Ljiljana Ravlich.

Hon Michael Mischin: You must read a telephone book for entertainment!

Hon ED DERMER: I always find Mr President a very sensible officer to talk to. I will try to ignore others as they interrupt our sensible conversation!

Hon Ljiljana Ravlich not only made very clear the compounding effect of the causes of financial stress in Western Australia; she also understood clearly the quality of this bill and, in the insightful way she often displays, she provided some interesting statistics on property repossessions. I was very disturbed to hear them. But it is very important that we come to terms with this issue, because we need to understand the intensity of the misfortune people feel when they are forced to sell their homes to pay their mortgages. Not only is it intensely distressful for the people concerned, but also the number of Western Australians who are suffering has increased. We have a clear understanding of that from both Hon Sally Talbot and Hon Ljiljana Ravlich. I think it was also referred to by my other colleagues who have spoken in support of this bill.

Many people who are paying a mortgage are not only considering their own future but that of their children, who are inherently more vulnerable than adults. I can only try to imagine what it must be like to be in a situation in which people's best endeavours to provide a home for their children is slipping away because of the ever-increasing financial stress faced by many Western Australians, and getting to the point at which they must surrender the home for which they have worked so hard to provide.

Hon Robyn McSweeney: It won't stop them from losing their homes.

Hon ED DERMER: This bill will provide, Hon Robyn McSweeney, an onus for banks to behave in a reasonable fashion to ensure a reasonable return on the property. Therefore, the residual debt will be less than it would be if people were forced to sell a property in hurried circumstances, which would then raise less, making the debt larger.

Hon Robyn McSweeney: I understand that, but I am just saying that this won't stop the houses from getting sold.

Hon ED DERMER: The bill will enable people who are in that really disappointing, stressful situation in which they need to sell their homes, to recover more by not being rushed into selling them. Therefore, whatever debt they would otherwise have had would be less, because they would have received more from the sale of the home.

The other interesting aspect of this bill is that I cannot see anyone who would be unfairly disadvantaged by it. Banks that treat customers with respect and understand their human needs will profit commercially in the longer term, because in return they will have gained respect from customers and potential customers, which will be to the banks' long-term advantage. Everyone wins with his bill, and as I said, I am yet to hear an argument for why that would not be the case. I am yet to hear an argument that points out anyone being disadvantaged by this bill. I suppose, that, naturally, the person buying the mortgage-sale property is disadvantaged, because they have to spend a bit more vying for it rather than a bit less. If we really stretch our imaginations, the people doing well enough to be able to purchase a property for sale due to someone else's inability to pay the mortgage will be slightly disadvantaged. But weighing one against the other, I am more concerned about the person who is being forced to sell their property. The policies and practices of the Barnett government are contributing to the general financial stress of Western Australians in the way that I and my colleagues who have spoken in support of the bill have demonstrated. Hon Matt Benson-Lidholm made the connection between disposable income and mortgage stress very clear—as disposable income becomes less, there is less buffer to enable a person or family to steer their way through difficult times. When people need to pay 46 per cent more over a period of two years for their electricity, and face not dissimilar increases for gas and water and other costs for things that are not luxuries, that are basic requirements; when there are so many ways in which the Barnett government is insidiously deriving revenue in a way that is not clear and finding novel instruments to do so—I talked before about the Waste Avoidance and Resource Recovery Amendment Bill and we talked about the Police Amendment Bill that was before us recently—at least some of the factors contributing to the sadly increasing incidences of people in Western Australia being forced to sell properties to meet mortgage payments become very clear.

I learnt a lot from listening to Hon Helen Bullock. I was interested to listen to her observations about the real estate auctions that she attended. For Hon Helen Bullock thorough, professional research is a practice; I would almost say that her professional thoroughness has become a habit, and it is a very constructive and worthwhile habit to have. I was very interested to hear what she said this morning about how the analysis of the real estate market in turn has an impact on the deliberations of the Reserve Bank; how at times the deliberations of the Reserve Bank result in an increase in interest rates, although, mercifully, not recently, and, hopefully, not for a long time to come. Obviously, rising interest rates will present a serious difficulty for people who are only just managing to meet their mortgage requirements, because rising interest rates will increase their mortgage requirements at the same time that other costs increase—in many ways as a result of the actions of the Barnett government.

It was very interesting to listen to Hon Helen Bullock's comments on the circumstances for young adults, and if I understood correctly, there is reference to 30 to 35-year-olds being young adults. I do not know whether it says more about my advancing age, but there are many older people in Western Australia who at a time when they would expect to have the security of their own home, become emotionally distressed, if not financially distressed, when they see the difficult circumstances confronting their children and grandchildren. There is perhaps a temptation to provide financial support for children and grandchildren to help them, and it is a parent's instinct to do so, but it might ultimately have difficult consequences for the parents.

Mr President, I would appreciate the goodwill of the house if I could be given the extension of time that I requested. I might be reminded of the procedure for seeking an extension of time.

The PRESIDENT: The member needs to seek leave for an extension, otherwise I will put the question that the bill be now read a second time.

[Leave granted for the member's time to be extended.]

Hon ED DERMER: I thank my colleagues for the extension. I hope that this indicates that I am making progress in my endeavour to persuade.

I recently received a letter from Mr Joseph Quick, who is the president of the Curtin Student Guild. I appreciated receiving the letter. I have a certain degree of affinity with Mr Quick, having been a student guild president,

albeit at a different university, many years ago. I therefore have some awareness of the situation that Mr Quick is in from my recollection of one that I was in, in 1981. I congratulate Mr Quick on his letter. He raises his concerns about the financial constraints being applied to students at Curtin University, and they relate to increases in parking fees. It is a letter that he has sent to all members of Parliament, therefore it will not be the first time that members have had it brought to their attention. I share one paragraph with the house. It reads —

The issue at the heart of this letter is the recent policy changes to the parking fee structure at Curtin's Bentley campus from a permit based parking to a 'pay as you go' (PAYG) fee structure. This fee restructure will see the maximum amount a student will pay per annum to park at Curtin increase from \$155 in 2010 to approximately \$455 in 2012.

Therefore, from 2010 to 2012—my mastery of arithmetic is not that quick—it looks like Mr Quick expects the charge increase will be well in the order of 200 per cent. Mr Quick goes on to explain how that would be to the disadvantage of students who now spend more time at university, and I am sure, more time studying and doing useful research that would benefit our state. This is just one more example of increasing costs. I am not aware of the details of why Curtin University has come to this decision that will put this extra burden on students, some of whom will be adult students, perhaps supporting families at the same time, perhaps with a spouse supporting them in their endeavours to improve their skills by returning to university. I am not sure of the internal financial affairs of Curtin University that led it to place this extra burden in the way that Mr Quick has described by charging more for parking. It is not a huge amount of money in the context of mortgages and mortgage debt. As my colleagues have clearly pointed out in their contributions, the point is that it is one more way that financial pressure is mounting on Western Australians. I am very pleased that Mr Quick took the initiative to share his concern with all members of the house on behalf of the students he represents. I know from examining the annual report of the Claremont Football Club—the actual parts of the report about the ever-advancing success of the team on the football field was very encouraging—that the extra cost of increased utility charges, particularly electricity, is a burden to that organisation. Without knowing for certain, I imagine that the factors that led Curtin University to increase the cost of parking are very likely to be related to the increased cost burden on the university. After studying the consequences of increasing utility charges on organisations such as the Claremont Football Club, I imagine that the power bills to run a university would be very large. A 46 per cent increase over two years would have a very serious burden on the financial character of Curtin University. That would lead to possible decisions to recover money in other ways. Sadly, whenever an organisation meets a financial need, if it has the opportunity to pass that cost on to someone else, the temptation is there. It is quite possible that is happening at Curtin University, which has led to Mr Quick writing his letter to make us aware of the distress faced by its students.

When charges increase, there is increased pressure on the community. Whenever an organisation meets increasing financial pressure, there is a temptation to pass on the costs. As organisations need to meet their responsibilities, they will find a way to pass on that cost. At the end of this chain of shifting cost burden are the people of Western Australia who have to live with it. Sadly, for a large number of Western Australians, it ends up not only costing them their home but also leaving a debt. In the modest, effective and elegant way put forward by Hon Sally Talbot, this bill provides an opportunity to ensure that, rather than the property being sold quickly, the property is sold with due care to ensure that a reasonable market value is achieved. In that way it will make a little better, perhaps an important proportion better, the situation for Western Australians who are in the most difficult circumstances.

I appreciate the extended time. I appreciate the important initiative taken by Hon Sally Talbot. I implore all members of the chamber to open their minds and not make a decision to oppose this bill purely because it has come from a very hardworking member of the Australian Labor Party who is also a member of the Legislative Council. In the absence of a reasonable explanation for opposing the bill, I fear that blind partisanship—which I keep telling people does not exist in this chamber—may prevent members voting in support of this bill. Members should explain to the house a good reason to not support this bill. I fear that a member voting against this bill may be doing so for reasons of blind partisanship rather than purely considering the welfare of the people of Western Australia. I am yet to hear from other members of the chamber, except my own Australian Labor Party colleagues. I ask members not to be tempted to consider partisan matters, to consider this excellent bill on its merits, and to consider how important it is to provide a modicum of relief to Western Australians in extremely difficult circumstances. For those reasons, I ask all members to use their better judgement and their most heartfelt concern for Western Australians and support the bill before us.

HON WENDY DUNCAN (Mining and Pastoral — Parliamentary Secretary) [11.24 am]: I must say that I am very impressed with the eloquent and elegant presentation by Hon Ed Dermer. In fact, what particularly impressed me about his presentation was the obvious love and mutual admiration between members opposite in their preparation of this bill and their support of it! It is something that we should all aspire to in working as a team to support legislation.

The National Party has considered the Property Law (Mortgagee's Power of Sale) Amendment Bill. We are very sympathetic to the sentiments expressed. My husband and I have had personal experience of this, under Paul Keating, when we endeavoured to buy a farm when interest rates were 23 per cent! I can assure members that nothing gets you out of that situation—in fact, this legislation would not. The problem is when people get into a situation of mortgage stress and the market is in decline, it is very difficult to establish what the market value is even if people are not in a mortgagee sale situation. Although the Nationals are very sympathetic to this bill, we will not support it because we cannot see that it actually will make a difference. The problem with bills like this is that there may well be unintended consequences if they are passed, with the banks being even less inclined to lend for the purchase of properties. It is hard enough to get into the property market as it is without adding this extra impediment for the consideration of the banking industry.

Debate adjourned, pursuant to temporary orders.