

ELDER ABUSE

Motion

HON NICK GOIRAN (South Metropolitan) [11.30 am] — without notice: I move —

That the Legislative Council —

- (a) acknowledges the growing problem of elder abuse in Western Australia;
- (b) commends the work of non-government and government programs to prevent elder abuse; and
- (c) calls on the whole community to work together to eliminate elder abuse in all its forms.

I hope, and I anticipate, that the tone of this debate will be in sharp contrast to what we just had in the previous debate. In the spirit of that, I remind members that on the past two occasions I have had the opportunity to move a motion without notice during private members' business they were motions crafted to seek bipartisan support—one moved in March last year on the sexualisation of children, and one moved later last year with regard to palliative care services. I hope we might be able to achieve that bipartisan support again this morning.

In moving this motion I am conscious of two aspects of the human condition that we must bear in mind in confronting the problem of elder abuse. The first is that there are times and circumstances that make members of the human family more vulnerable to abuse and therefore more in need of protection from the whole community. This obviously applies to children, both born and unborn, who are in the nature of things dependent on the adults into whose care they are entrusted for the necessities of life. This also applies, in my view, to those who have profound disabilities, whether intellectual or physical. Advancing age can bring its own set of vulnerabilities including physical frailty, mental confusion and dementia, loss of support networks such as through the death of a spouse, and social isolation. The second aspect of the human condition to which I refer is the reality that some human beings will take advantage of the vulnerabilities of others for their own ends, including for power, financial gain and sexual gratification. In all too many cases the perpetrator will be someone who has a duty of care based on kinship or professional responsibility to their victim. In the case of older persons I would like to think that adult children would respect their ageing parents with the devotion typified by John Wemmick's jovial, wry and tender relations with his "Aged Parent", which is so engagingly portrayed by Charles Dickens in *Great Expectations*. Sadly of course, it is not always so.

This morning I propose to refer to two studies on elder abuse carried out in Western Australia that found that the main perpetrators of elder abuse were adult children. In the two studies, those figures were 43 per cent and 56 per cent. The first study I refer to is the 2002 study of Boldly, Webb, Horner, Davey and Kingsley entitled "Elder Abuse in Western Australia: Report of a Survey Conducted for the Department of Community Development — Seniors Interests". The second study is Faye and Sellick's report of 2003 "Advocare's Speak Out Survey 'S.O.S.' on Elder Abuse", and that particular research was cited in a further report by Clare, Blundell and Clare for the Crime Research Centre of the University of Western Australia entitled "Examination of the Extent of Elder Abuse in Western Australia: Qualitative and Quantitative Investigation of Existing Agency Policy, Service Responses and Recorded Data". I quote these reports from time to time about these matters.

With the two aspects of the human condition I mentioned in mind—the vulnerability of some human beings and the propensity for evil in others—I turn to the substance of the motion this morning. I firstly turn to the task of defining "elder abuse". A definition of elder abuse developed by the UK agency Action on Elder Abuse has been adopted by the World Health Organization. That definition is used in Western Australia by Advocare Incorporated, which is a community organisation that supports and protects the rights of older people. The definition is as follows —

A single or repeated act, or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person.

I note that there is some question about the appropriateness of the phrase "elder abuse" in the Australian context where "elder" is a term used by Aboriginal Australians to refer to persons with a particular standing in their communities. However, the term is used in the international literature on the subject and it seems to me that no alternative phrase has achieved consensus support at this stage. That is the context by which in this motion I use the term "elder abuse"—the sense given by this internationally used definition.

I now turn to the various forms of elder abuse. Firstly, there is financial or material abuse, which involves using an older person's money or property without their permission or contrary to their best interests. Financial abuse is the most commonly reported form of elder abuse, according to the research I have undertaken in preparation for today. The figures cited in the studies I referred to earlier are that 81 per cent and 74 per cent respectively of all cases of elder abuse reported are cases of financial abuse. Financial abuse is frequently accompanied by

psychological abuse, according to those studies. The third study I referred to earlier, that of the Crime Research Centre, notes that the misuse of an enduring power of attorney frequently features in financial abuse of an older person. The report states —

Enduring Powers of Attorney ... [are] instruments that are very powerful and can be used quite indiscriminately, really, by people if they want to steal or otherwise take money away from people without anybody else necessarily picking that up ...

I move on to other forms of elder abuse including emotional or psychological abuse, which can include verbal or physical threats, threats of abandonment and intimidation, threats to harm others or pets, and withdrawal of love and support. There is also social abuse, which can include such actions as restricting the older person's social freedom and isolating her or him from family and friends. Furthermore, neglect is a failure to provide life's necessities such as adequate food, shelter, care and emotional support. Additionally, physical abuse covers any deliberate act resulting in physical pain or injury, including physical coercion and physical restraint. Lastly, sexual abuse of an older person includes all sexually abusive or exploitative behaviour, including sexual assault, such as making obscene phone calls or watching obscene DVDs in the presence of an older person who does not want to see this. As I say, these are all the different forms of elder abuse referred to and I have specifically referred to www.communities.wa.gov.au, which has an interesting and useful section about that.

In the limited time I have left I want to turn to the prevalence of elder abuse. According to the 2011 study by the Crime Research Centre at the University Western Australia, about one in 20 older people will suffer elder abuse of one form or another. I quote briefly from page 3 of that study —

Based on a range of international prevalence and incidence estimates for elder abuse victimisation, an average prevalence rate for WA was calculated to be 4.6% (ranging between 3.1% and 6.0%). This translates to an estimate of approximately 12,500 victims of some form of elder abuse in WA for 2011.

In view of the estimates of the increase in the ageing population, if the prevalence of elder abuse is not reduced, by 2031 there could be around 24 000 victims of elder abuse annually.

I turn to the impacts of elder abuse. In a 2008 editorial in *age and ageing*, Christine McAlpine set out the impacts of elder abuse, which include —

... emotional distress, loss of self-confidence and self-esteem, depression, attempts at suicide and self-harm, social isolation, financial loss and negative impacts on physical health.

Page 35 of the Crime Research Centre report I previously referred to observes, in relation to this matter of impacts, that —

Being a victim of elder abuse may have a devastating effect on a person's lifestyle and quality of life. For example, suffering financial abuse may mean that a person who was previously comfortably off may now be impoverished. The experience of elder abuse may also have an effect on the older person's health and well-being due to the emotions experienced as a result of the betrayal by loved ones.

...

Even when elder abuse does not result in imminent physical harm, research has shown it has a detrimental effect on mortality and causes severe emotional distress ...

I recently made a submission in relation to the Statutory Review of the Guardianship and Administration Act 1990 noting the need to be alert to the possibility of elder abuse when giving effect to treatment decisions made by guardians and other persons responsible for medical decision making for a person lacking capacity. In proposing that treatment decisions by persons be made non-binding, my submission argued that given the prevalence of the rate of elder abuse, it is irresponsible for the law to assign to enduring guardians and persons responsible—mostly family members—a virtually absolute power to make treatment decisions on behalf of a patient, including elderly patients. Section 110ZD(8) of that act states —

When making a treatment decision for the patient, the person responsible for the patient must act according to the person's opinion of the best interests of the patient.

But the act does not contain an effective mechanism that allows a health professional to decline to give effect to a treatment decision that may be maliciously motivated and harm a patient or cause death. Given that financial abuse has been identified as the most significant type of elder abuse in both quantitative and qualitative studies, it is clearly possible that family members who are prepared to financially exploit an elderly person may also be prepared to make treatment decisions that would hasten the person's death, so as to enable them to benefit from an inheritance or a life insurance policy.

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Similar concerns apply to proposals for legalising voluntary euthanasia. I briefly make reference to Dr Jeremy Prichard, a lecturer in criminology and criminal law at the University of Tasmania, who has drawn attention to the literature concerning elder abuse and its implications on the legalisation of euthanasia. He notes that legalising euthanasia would carry a risk that some older persons may be pressured—inadvertently, or deliberately—to request access to euthanasia. Given the evidence on the vulnerability of some older persons to exploitation and their reluctance to speak out about abuse, Dr Prichard considers that safeguards to detect and deter pressure are likely to be of limited effectiveness against such pressure. I refer to page 610 of the article by Prichard, “Euthanasia: A reply to Bartels and Otlowski”, which featured in the *Journal of Law and Medicine* in 2012.

In conclusion, I briefly mention the need for awareness-raising of this matter. More broadly, I would suggest we need to raise community awareness of elder abuse and work together to overcome some of the barriers identified by McAlpine in the *age and ageing* editorial as preventing older people subjected to elder abuse from seeking help. These include low self-confidence and self-esteem, fear of the consequences of action, and the lack of awareness of the role and remit of services that could help. In my view, we all need to contribute to a community-wide conversation on elder abuse that will increase awareness of this insidious problem and contribute to its elimination. On that basis, I commend the motion to the house.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [11.45 pm]: I thank Hon Nick Goiran for moving this motion, and on this occasion the Labor Party will agree to the three outlined points. Sadly, this is an ever-increasing problem in our community, partly due to our ageing population, and I pick up on Hon Nick Goiran’s point that we are seeing an increase in, perhaps, the dark side of people’s personalities when dealing with older family members or friends. Many of us may have seen evidence of these types of situations arise in our own families—I have seen an example of it myself—and it can tear families apart. It is dreadful to see this type of elder abuse occurring, particularly for financial reasons, which I understand is becoming more and more prevalent. Members may have, from time to time, come across these types of situations when people have sought their help through their electorate officers to try to find a remedy to the position they are in. I agree with Hon Nick Goiran that it is a growing problem, and the Advocare report, “Examination and Extent of Elder Abuse in Western Australia”, which was published in April 2010, stated that something like three per cent to five per cent of people over the age of 65 had experienced elder abuse. That is a real tragedy. I do not know whether this has always happened or we are just more aware of it, or more people are now attempting to take advantage of a very vulnerable group of people.

Elder abuse can come in a range of forms, as outlined by Hon Nick Goiran. Probably the most frequent we hear about now are in the financial arena and issues surrounding problems with guardianship. Because of the number of people with dementia, Alzheimer’s disease or a physical disability, we are seeing an increase in cases of people seeking guardianship or seeking to change guardianship arrangements for older people. That can sometimes have a negative outcome in that people have used that opportunity for their own financial gain. There have also been issues around the misuse or abuse of the enduring power of attorney. As we all get older we will have to deal with these issues ourselves, so we should make sure good systems are in place to protect people. I am currently going through this type of issue with my own father, making sure he has the proper protections in place for himself, given that in the past couple of years he has had a couple of serious incidents when decisions have had to be made for him. We have to make sure that the appropriate legal protections are in place. Many people in this chamber are dealing with these issues in both our personal and professional lives.

The third area where there seems to have been an increase in recorded abuse is that of family agreements; for example, an individual will make a verbal arrangement with a member of the family to take on the continuation of a payment of a home loan or other bills, and then default on it. There seems to have been an increase in those sorts of issues. These type of situations cause significant problems for people heading into their more senior years. More adequate protections need to be put in place to ensure they do not have to deal with these problems. Although I agree with the government on this, I do not know that there is a silver bullet to fix these problems. We can create all the proper legislative and regulatory frameworks and can communicate all the right messages—we need to do more of that—and ensure that advice is provided by the right professional people, be they police, lawyers or people working at the Public Trustee’s office. A very interesting report was tabled in the last couple of days by the Attorney General about the Public Trustee and the administration of financial affairs of vulnerable people. I encourage members to at least read the executive summary because it picks up on some interesting points about how the Public Trustee manages the financial arrangements of a significant number of people and how even they struggle in some ways to properly make sure their financial or lifestyle arrangements are managed according to their wishes, and that things are done correctly. A range of things needs to be done.

Hon Nick Goiran is right; because we look to the long-term future of our community, we should be able to resolve these types of issues working cooperatively with each other. They are significant issues. I do not know

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whether Hon Nick Goiran has had the opportunity, but in November 2011, the Labor Party put out a discussion paper that Hon Sue Ellery was involved in writing. It was called “Behind Closed Doors: Elder Abuse in Western Australia” and sets out a lot of the matters Hon Nick Goiran referred to and outlines some of the key issues people have to deal with. It also sets out a range of proposals that could be investigated to try to address them.

I have only three minutes left, so I will read out these headings because as we go through this debate today, members may want to expand upon some of them. Although we are having this debate today, it will be a really useful area for us to explore as a Parliament and look at what is happening in other parts of the country or the world that afford the appropriate protections to people so they do not have to suffer whatever type of elder abuse they may be putting up with. One of the options for action outlined in this discussion paper is community education campaigns. That touches on the third point Hon Nick Goiran referred to. We need stakeholder education campaigns. We have to ensure that the people who take on board complaints or have to take action on behalf of the victim, if we like, need to be appropriately skilled and professionally trained and should know how to both counsel people in this situation and take action for them. We suggest an elder abuse resource guide should be developed. A lead agency should be identified to manage this issue and more power should be given to the Office of the Public Advocate, particularly for investigating elder abuse. It would also be helpful if that office were given more scope to handle elder abuse cases. Another suggestion is the establishment of an electronic interagency database so that complaints can be cross-referenced and tracked, rather than being seen as isolated and having no relation to complaints made to a number of agencies about someone suffering a variety of forms of abuse. There should be funding for legal services. I understand that although some counselling options are available in the metropolitan area, none of those options are available in the rural and regional areas. That is a significant issue that should be looked at. Again that relates to the next point about programs in rural and remote Western Australia. We need to look at dispute resolutions and a register for enduring powers of attorney with an auditing process, and an elder justice act. Given his background, Hon Nick Goiran will probably be interested in that option.

Another heading is “Financial Legislation (Australian Bankers Association)”. A number of complaints to me have been around children accessing their parents’ bank accounts. They might get a parent’s PIN and draw all the cash out of the account, and when the parent goes to get out money and discovers the cupboard is bare they have no recourse. It is very difficult for people in this situation to take action against their own children. I commend Hon Nick Goiran for moving the motion today.

The DEPUTY PRESIDENT (Hon Adele Farina): I note that a number of members are on their feet, but in trying to be fair to all political parties I will give the call to Hon Col Holt.

HON COL HOLT (South West — Parliamentary Secretary) [11.55 am]: I will be very quick so that other members have a chance to contribute. Before I became a member of this place my role involved working with communities through a community development role. I was fortunate to be working throughout the whole state with a lot of communities, looking at their capacity and leadership development. One of the people I worked with was a French woman who had made Western Australia her home. Before she came here she had worked all over the world with communities and community groups, developing leaders and working in community development leadership roles. One of the profound things she once said to me was that in the western world we tend to shove off our seniors into retirement to play golf or bowls so they can enjoy their lives after working hard for many years. For a while, retirement age was decreased and I guess more and more people were retiring earlier. That has since been reversed and we are starting to appreciate the value our seniors can contribute. One of the messages she gave me was that in the western world we tend to do that and almost, in a way, ignore their contributions to government, decision making and their wise counsel. Most Indigenous communities of the world really value their elders. We can go to any indigenous race of people in any part of the world and find elders with life experience, who have built up many years of wise counsel, are cherished the most in their communities. The lesson in that for me is that although they might be more senior, our elders can continue to contribute a lot to our communities, our decision-making processes and government.

Having said that, I want to relay some of the actions we have been working very hard for in regional Western Australia in supporting our seniors as they get older. One of the greatest programs we have been concentrating on is seniors housing in the communities where they have lived and worked for their whole lives. In the past, when they were becoming a bit more dependent on health services, community services or relatives, we have been telling them, “We don’t have anything in this small town in Western Australia; we need to relocate you away from your families and your own community that you love and cherish.” We have invested quite a lot of funding into developing land and some partnerships so that seniors’ houses are now being built all over regional Western Australia. Those seniors can now opt to stay closer to their families and the friends they have known over the decades. That is an outcome this government should be very proud of and we will continue to work to ensure our elderly people are loved and cherished in the communities they grew up in. We will continue that

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work and, in our decision making, we need to continue to look at ways of cherishing the value of our elderly in our communities. Thank you, Hon Nick Goiran, for raising that today.

HON JIM CHOWN (Agricultural — Parliamentary Secretary) [11.59 am]: I congratulate Hon Nick Goiran for bringing this motion to the house and I also congratulate Hon Kate Doust for her positive contribution. Both members obviously have a great deal more knowledge of this matter than I have. Be that as it may, I am more than happy to put my perspective on the matter.

One of the saddest things to see in life is elderly people on their own. A great deal of work has been and is being done in our society on bullying, and that is what elder abuse is really about. Today at one end of the spectrum there are programs in the education system, schools and workplaces to stop bullying of all kinds. That is a good thing. However, Hon Nick Goiran has brought the attention of this house to the elephant in the room; that is, at the other end of the spectrum, abuse of elderly people. We are fortunate if we live a long life. I certainly hope that I die in my sleep and do not end up in an institution somewhere all alone, fragile, old, decrepit and with my mind not working.

Hon Darren West: That is the Liberal Party!

Hon JIM CHOWN: Ha, ha! I have not reached that stage yet. The honourable member may think so, but I will take that up with him later!

The most fragile people in our society are not the young. The most fragile is not a young, robust child running around and perhaps being bullied at school, nor is it a babe in arms. They actually have support groups. They have people who love and cherish them and who do their best to ensure that they are brought up in a very good environment. The most vulnerable people in our society are the elderly living on their own. Their families love them but the family probably sees that their time is coming and the time for moving on is near. There are avaricious family members who see an opportunity—usually financial—to take advantage not only of the elderly, but also of other members of their family. They try to disadvantage them. I think the worst form of abuse of an elderly person at that stage of their life is mental abuse by emotional blackmail in getting them to sign papers put in front of them that they do not understand. Some people use an elderly person's age, decrepit state or lack of mental agility to their advantage and to the disadvantage of other members of their family.

As Hon Kate Doust has more than adequately expressed in this house, it is not an easy matter to resolve. I do not know how we can legislate for it. I do not know how we can put in programs to overcome it. We can, however, establish an awareness program to inform people that it will not be tolerated. People need to be aware that there are repercussions for participating in any of these forms of elder abuse and that they will be reported to some entity. I hope that Hon Helen Morton will have a few words to say on this motion—perhaps not. I am sorry that I have put the minister on the spot.

Hon Helen Morton: No; I can get up.

Hon JIM CHOWN: I have put the minister on the spot. We should have discussed this earlier but, unfortunately, the extra strong mints that I offered her as a bribe were not accepted!

Hon Helen Morton: I have information prepared and if there is time after all the backbenchers speak, I will talk.

Hon JIM CHOWN: I thank the minister for that.

Apart from the levity—or brevity is probably the correct word—this is a very serious subject. As I said earlier, it is a subject we need to address collectively. This country has an ageing population. The statistics show that the number of people living longer and the demographic group reaching the age we are talking about in debate on this motion will increase enormously. One aspect of elder abuse that concerns me in the realistic scenario I am painting here is that we will run out of resources. Our current resources will be stretched to the limit for a host of reasons, which will probably open the door to an increasing number of opportunities for people of the persuasion to abuse their loved ones along the lines to which I just referred. Therefore, government awareness of elder abuse and social programs to combat it are absolutely essential. As I said earlier, I am not an expert on this subject but it is a subject that should concern us all. That is all I have to say on the matter and I look forward to the contribution from other members.

HON JACQUI BOYDELL (Mining and Pastoral) [12.04 pm]: I thank Hon Nick Goiran for bringing this extremely important issue to the house today. I concur with all members who have spoken so far that it is an extremely difficult situation to manage. Yes, it is increasing. How do we as a government manage it? How do we legislate for it? I tend to agree with Hon Jim Chown that it is difficult to do those things. Raising awareness of the issue, as Hon Nick Goiran has done today, is probably one of the ways we can help combat this growing problem.

Extract from Hansard

[COUNCIL — Thursday, 19 September 2013]

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Hon Nick Goiran; Hon Kate Doust; Hon Col Holt; Hon James Chown; Hon Jacqui Boydell; Hon Peter Katsambanis; Hon Darren West

I want to touch on a couple of issues today, one of which is the capacity for families to care for their elderly family members. I also want to touch on the government structure that supports them to do so and probably the work that we can do to allow that support to continue. I also want to touch on the services provided by government and by non-government agencies.

I think all of us have an elderly family member or friend. They may be living in a nursing home or still living independently in the home they have lived in for a number of years. Indeed, they may be living in a residential community. A lot of people who do not need a high level of care like to go into a residential community because it is safe and secure, and they have a social environment that they can trust. Many residential communities I have visited are really lovely places, and I commend the people who work in them.

Many elderly people continue to seek a level of independence that allows them to have a sense of their own security and to be safe in their own home. I understand that completely. Some require the support of government services and non-government programs, or the support of family, friends and friend networks to allow them to remain as participants within their community. To me the thought of the most vulnerable, the elderly, in society being subjected to levels of abuse of various kinds is sickening; and I am sure every member of the house feels exactly the same way about that.

We must remind ourselves of the certain principles and rights of elderly people. The United Nations Principles for Older Persons draws attention to supporting independence of the aged; participation in their community; the need to nurture their level of care; a degree of self-fulfilment for an elderly person; and the retention of an elderly person's dignity. Those are fundamental rights that we all have as people. Elderly people who have dedicated most of their life to their communities, families, friends and organisations most certainly deserve those rights. Sadly, that is not always evident in some situations. Many elderly people become isolated from their family and friends and actually believe themselves to be a burden or are perceived by their family and friends to be a burden. That, sadly, can leave them more vulnerable to people taking advantage of them. We must therefore provide greater support to those who actively and genuinely care for the elderly within our community. This support can be provided by either a non-government organisation or some form of government service through a volunteer organisation, such as Meals on Wheels; or by families and relatives who are committed to caring for their elder's needs.

I want to share with members the experience of someone relatively close to me. I want to highlight an area where the system falls a bit short. It is an area in which carers could perhaps seek greater government services—at least from a federal perspective—to assist their elderly family members. The person's grandparent is turning 100 years of age in a couple of months. I think that is quite a credible achievement in itself, and I certainly wish her the best for her birthday. Although she is mentally sound and stoically determined to be as independent as possible, physically within herself—understandably for someone turning 100—it is not always possible. She requires 100 per cent physical and emotional care. As people get older, they need extra support because they are less physically and emotionally confident. This elderly woman needs around-the-clock care, but she is absolutely unwilling to go into a nursing home, and her family respect her wishes to continue to live in the home she has lived in for a very long time. We all understand that. If it were not for her daughter's decision to no longer work and to be 100 per cent available to her mother physically and emotionally she would have to rely on the support of strangers. She would probably be too ashamed to do that and would probably rather go without any help and assistance than place herself in what she would perceive as an embarrassing or undignified situation. The fear of a lack of dignity in our twilight years besets everyone. I agree with Hon Kate Doust when she says that that will be a problem for all of us at some time, and I struggle with that fear also. Fear of the unknown is a reality for elderly people and their families when an elderly person is placed into care. It is also a stressful time. The assistance this elderly person receives from her daughter in and out of her home allows her to maintain a level of independence, which is fundamentally important for that woman and her family. However, the irony is that the care, love and support of this daughter for her mother is not valued by government or in the structures we put around that. When elderly people maintain a degree of independence, their carers do not qualify as carers by Centrelink. This daughter does not receive a carer's pension or allowance, which is a financial burden for that family, but they have made the decision that caring for their grandmother is a greater priority than financial gain. When families give up work to care for an elderly person it places great strain on them, so I believe that we should look at assessing care separately. Luckily, this family can afford for their daughter to not work and to look after their elderly relative, but many families cannot afford to do that, and it can have substantial financial consequences for families. However, when families cannot give up work, their elderly relatives are vulnerable and may be exposed to circumstances that may lead to neglect, abuse and mental decline. I would like to believe that families and relatives are the most genuine and able to give the most support to their elderly relatives. Perhaps we need to rethink where support lies and encourage families to be more involved in their elderly

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relatives' physical and emotional needs and be recognised financially and by the community for doing that. The current system probably does not do that but it might impact on that a bit.

Greater checks and balances are needed in the current system. When people choose to go to nursing homes it is important that highly qualified nursing staff are available to meet the physical and mental needs of the elderly population. There also need to be better options for the elderly to maintain their independence. The elderly are as vulnerable as children and we need greater awareness of that. A comparison of access to services for the elderly in regional and metropolitan centres shows that regional WA contends with a lack of professional staff and aged care facilities. In my contribution to the budget in reply I said that we need to work towards providing greater services for the aged population in regional WA. I agree with Hon Colin Holt that significant inroads have been made into housing the aged population in regional WA. I was pleased that the Minister for Regional Development said in Parliament on 11 September that it is the core role of government to ensure that older members of the community who have contributed so much can in their later years access quality affordable housing. We are definitely on the road to doing that. We need to do more. We need to be able to provide greater services.

HON PETER KATSAMBANIS (North Metropolitan) [12.15 pm]: I am proud to associate myself with this motion moved today by Hon Nick Goiran. The motion addresses an issue that is not talked about a lot in Australian society. It is almost a forgotten issue, one we tuck away to the back corners of our minds and do not often address publicly. That is so because when we think of elders in Australia today, we think of the generation that grew up relatively self-reliant and silent. They went about their business without overly expressing their concerns publicly. As that generation has aged it has continued to maintain dignity and relative silence, especially when compared with the generations after them. Unfortunately, they have also not been able to voice concerns about abuse as they have aged. I hope that this motion and the very knowledgeable contributions of all the members today highlight this problem so it can begin to be addressed. Like members who have spoken before me, I believe this issue cannot be addressed by government; it must be addressed by society as a whole.

I agree with Hon Colin Holt when he says that modern Australian society seems to devalue the contribution of our elders. When these people reach a certain age we tend to deem them as people who have passed their use-by dates. In areas such as the judiciary, people are required to retire compulsorily in their early 70s. However, there have been exceptions to this, examples being people such as Sir Laurence Street and Tom Hughes, QC, who have both continued well into their 80s providing legal expertise at very senior levels. Yet, unfortunately, the community generally devalues the contribution of older people in our society.

I grew up in a household of Greek migrants. I am generally proud of my Greek heritage, but I am particularly proud of the way people of Greek origin view the role of older people in our families and society when compared with the view of the broader Australian population. As I grew up I got great value out of listening to my grandfather and the people of his generation. My children get value out of their grandparents—my parents and my wife's mother. I welcome society starting to embrace the value elderly people provide to our society rather than society treating them all too often as a hindrance, as people we tuck away, forget about and hope eventually just move on. That tucking away of people sometimes leads to silent abuse—the abuse we do not hear about often enough. Hon Nick Goiran highlighted in particular the financial abuse of older persons and I would like to offer some of the opinions I have formed from my professional involvement in the law prior to coming to this place.

Financial abuse can happen in many ways. It can be opportunistic on a one-off or occasional basis by people who have control of older people's finances. It can occur when the older person no longer has capacity to understand what is happening to their financial affairs and someone takes the opportunity to take funds away more often. But another form of financial abuse is what I believe to be the most insidious of all; that is, when the financial losses do not come at the start, but at the end of a horrible process of emotional abuse. That emotional abuse of elderly people occurs in many ways. It is essentially a power imbalance whereby younger people, usually family members, continue to pick away at the elderly person, creating guilt and fear in them about the financial security of their younger family members, usually children. As we know, most elderly people want their family, children and grandchildren to live well. Unfortunately, a few people take advantage of that and really emotionally pry away at these older people. Although it seems that the decision to provide financial assistance to these people, often at the expense of the elderly person, is voluntary, in actual fact, when we scratch the surface we find that it is not a voluntary decision at all. It is a form of strong emotional abuse that eventually ends up as financial abuse as well. It is wrong but it is very difficult to work out ways to stop it.

In the past it may well have been a little easier because financial interactions usually took place with another human being, often at a local bank branch. If someone with a power of attorney went along to the bank, after a while possibly the bank manager or the teller, who may well have personally known the elderly person at some point, would have twigged to some problem and reported it up the line. Today, many banking transactions are

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electronic. I do not think it is a bad thing that banking transactions take place electronically—I think it is a good thing—but it takes away that personal contact that may well have identified and stopped financial abuse at an earlier point. That should be an alarm bell to us all.

The legal system has for a long time known about power imbalances and unconscionable conduct with elderly people. In the short time available to me, I note that this year is the thirtieth anniversary of a very famous Australian legal case—namely, *Commercial Bank of Australia v Amadio* (1983) 151 CLR 447. It is a leading case on unconscionable conduct that was heard in the High Court. Essentially, the elderly Amadio couple were coerced into signing a guarantee against a series of loans that their son had taken with the Commercial Bank of Australia. Reading the facts of the case, it really transpires as an early identifier of elder abuse. The bank and the son had a long history of dealing with each other. As the son's financial circumstances became worse, the bank and the son worked out together that it might be a good idea to continue to lend to him as long as the family home of the son's elderly parents, who were from a non-English speaking background, was put up as collateral for the loans. The family really did not know much about it. The facts of the case are that the son took the bank guarantee to the parents. The bank did not take the documents to the parents; it relied on the son to convince the elderly parents. Eventually, it came to be that the son could not repay the loans and the bank came to take the family home of the elderly Amadio couple. It went all the way to the High Court, which found unconscionable conduct on the part of the bank because the action was between the parents and the bank. But when we read the facts of the case it is quite clear that the son effectively “colluded” with the bank to do that.

We know that this sort of elder abuse is happening because we see it in legal cases. It is very difficult to know what to do about it. I think identifying elder abuse is the first step. As long as we can identify elder abuse and the community has awareness of it, we can all act together to help stem this problem. Again, I commend Hon Nick Goiran for bringing this issue to the house and I commend the motion to the house.

HON DARREN WEST (Agricultural) [12.25 pm]: I commend Hon Nick Goiran for bringing this issue to the attention of the house; it is a worthy motion. I will add a small contribution in the time remaining for this debate.

Recently, I was invited to the Parliamentary Friends of Disability Reform gathering in the Aboriginal People's Room at Parliament House. I was particularly moved by some of the stories I heard from relatively young people, but it also made me realise that the area of disability is not confined to young people, as we often think; there are, of course, very many people who have moved on in years and are elderly with a disability. I was particularly touched by the story of the Leader of the Opposition, Hon Sue Ellery, about the events of the 19 years before her mother's death. A very unjust part of an elderly person's life is the fact that Western Australia does not have a no-fault insurance scheme for people who acquire disability. I came away from that gathering with renewed resolve to push for such a scheme because, as I indicated earlier in my comments, the area of disability is not only about young people in wheelchairs who have had sporting accidents, but also elderly people who have had bad falls or in other ways acquired disability. I urge members opposite to get together with the Parliamentary Friends of Disability Reform and me on this issue and work towards a reform. It would take away the lottery that is disability in that if a person acquires their disability in one way, they are entitled to be insured but if they acquire their disability in another way, they are not. Although I note that the state has signed up to the National Disability Insurance Scheme, I still think we have more work to do in that area.

Like many members opposite, I have also had the experience of working with elderly people. I chaired the board of the Avon Valley Residency in Northam where we got together and set up a 54-bed nursing home. I saw firsthand the challenges in the area of working with our elderly and respecting and honouring our elderly people. But I also came away from that experience with a different view on the right of our elderly—I know that I am beating around the fringes of the intent of the motion—to voluntarily decide when it is time for their life to end. I think that we do the elderly people of our state no service at all to insist that the terminally ill and the extraordinarily frail, those who have the capacity to make such an important decision, do not make that decision. I think we do the elderly an enormous disservice by standing in the way of that decision. I always maintain the view that if people do not agree with voluntary euthanasia and a person's right to decide when it is time to end their life, do not do it but do not stand in the way of those who do agree. I remember the extraordinarily sad story that featured in *The West Australian* a year or so ago about the man who was being tried for the murder of his wife. All he was trying to do was to carry out her wishes about when it was time to end her life. She had a terminal illness and with her mental capacity still well intact, being in a position to make the decision, chose to end her life. She was not able to do so and asked her husband of several decades to end her life for her. As a consequence, he was to be tried for ending her life, and in the saddest of circumstances took his own life by drowning himself. If we are serious about making life better for our elderly and respecting our elderly, as we should, it is high time we stopped referring back to a book written 2 000 years ago that is obscure in some of its interpretation. We should tackle this issue head on and give our elderly people the ultimate right to determine when they have had enough of living and that it is time to end their life.

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Motion lapsed, pursuant to standing orders.