

Extract from Hansard

[ASSEMBLY — Thursday, 29 November 2018]

p9022b-9043a

Mr Bill Johnston; Dr Mike Nahan; Speaker; Mr Peter Katsambanis; Dr David Honey; Dr Tony Buti; Ms Margaret Quirk; Mr Bill Marmion; Mrs Alyssa Hayden; Mr Tony Krsticevic; Mr Shane Love

RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Returned

Bill returned from the Council with amendments.

Council's Amendments — Consideration in Detail

The amendments made by the Council were as follows —

No 1

Clause 5, page 4, line 24 — To delete “fundamental”

No 2

Clause 6, page 5, line 24 — To delete “person” and substitute —
lessor

No 3

Clause 6, page 5, line 26 — To delete “person —” and substitute —
lessor —

No 4

Clause 10, page 8, line 21 — To insert after “lessor” —
in writing

No 5

Clause 10, page 8, line 27 — To delete the line and substitute —
Penalty for this subsection: a fine of \$5 000.

No 6

Clause 12, page 10, after line 23 — To insert —
(aa) the tenant must give written notice to the lessor of the tenant’s intention to make the prescribed alterations; and

No 7

Clause 12, page 10, line 25 — To delete “tradesperson; and” and substitute —
tradesperson, a copy of whose invoice the tenant must provide to the lessor within 14 days of the alterations being completed; and

No 8

Clause 12, page 11, line 2 — To delete “so.” and substitute —
so and the restoration must be undertaken by a qualified tradesperson, a copy of whose invoice the tenant must provide to the lessor within 14 days of the restoration being completed.

No 9

Clause 12, page 11, lines 3 to 7 — To delete the lines and substitute —
(6) Subsection (4) does not apply to premises entered into the Register as defined in the *Heritage of Western Australia Act 1990* section 3(1) or in the register as defined in the *Heritage Act 2018* section 4.

No 10

Clause 18, page 17, line 13 — To delete “not less than” and substitute —
within

No 11

Clause 18, page 19, after line 10 — To insert —
71AF. Review of Division

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- (1) The Minister must carry out a review of the operation and effectiveness of this Division, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which this Division comes into operation.
- (2) Without limiting the scope of the review, the review must address the following —
 - (a) the effect of this Division on lessors' rights to recover debts owed by tenants;
 - (b) the effect of this Division on lessors' insurance policies;
 - (c) the effect of this Division on contractual certainty;
 - (d) the extent to which this Division affects contractual obligations upon lessors and co-tenants who are not perpetrators of family violence and the impact of those obligations;
 - (e) such other matters as appear to the Minister to be relevant.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

No 12

New Clause 22A, page 20, after line 19 — To insert —

22A. Section 88 amended

After section 88(2) insert:

- (3) Regulations made under subsection (1) for the purposes of section 47(4) or 71AB(2)(d)(vi) cannot come into operation earlier than six months after they are published in the *Gazette*.

No 13

Clause 29, page 26, line 4 — To delete “not less than” and substitute —
within

No 14

Clause 29, page 26, after line 10 — To insert —

45C. Review of Division

- (1) The Minister must carry out a review of the operation and effectiveness of this Division, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which this Division comes into operation.
- (2) Without limiting the scope of the review, the review must address the following —
 - (a) the effect of this Division on lessors' rights to recover debts owed by tenants;
 - (b) the effect of this Division on lessors' insurance policies;
 - (c) the effect of this Division on contractual certainty;
 - (d) the extent to which this Division affects contractual obligations upon lessors and co-tenants who are not perpetrators of family violence and the impact of those obligations;
 - (e) such other matters as appear to the Minister to be relevant.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

No 15

Clause 31, page 30, line 17 — To delete “fundamental”

No 16

Clause 31, page 31, after line 6 — To insert —

74D. Review of Division

- (1) The Minister must carry out a review of the operation and effectiveness of this Division, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which this Division comes into operation.

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- (2) Without limiting the scope of the review, the review must address the following —
- (a) the effect of this Division on lessors' rights to recover debts owed by tenants;
 - (b) the effect of this Division on lessors' insurance policies;
 - (c) the effect of this Division on contractual certainty;
 - (d) the extent to which this Division affects contractual obligations upon lessors and co-tenants who are not perpetrators of family violence and the impact of those obligations;
 - (e) such other matters as appear to the Minister to be relevant.
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

No 17

New Clause 32A, page 31, after line 18 — To insert —

32A. Section 95 amended

After section 95(3) insert:

- (4) Regulations made under subsection (1) for the purposes of section 45A(2)(d)(vi) or Schedule 1 clause 14(4) cannot come into operation earlier than 6 months after they are published in the *Gazette*.

No 18

Clause 33, page 32, line 18 — To insert after “park operator” —
in writing

No 19

Clause 33, page 32, line 24 — To delete the line and substitute —
Penalty for this subclause: a fine of \$5 000.

No 20

Clause 35, page 34, after line 23 — To insert —
(aa) the long-stay tenant must give written notice to the park operator of the tenant's intention to make the prescribed alterations; and

No 21

Clause 35, page 34, line 25 — To delete “tradesperson; and” and substitute —
tradesperson, a copy of whose invoice the long-stay tenant must provide to the park operator within 14 days of the alterations being completed; and

No 22

Clause 35, page 34, line 32 — To delete “so.” and substitute —
so and the restoration must be undertaken by a qualified tradesperson, a copy of whose invoice the tenant must provide to the park operator within 14 days of the restoration being completed.

No 23

Clause 35, page 34, after line 32 — To insert —
(6) The long-stay tenant must give notice of the prescribed alterations to the park operator within 14 days after the alterations have been completed.

No 24

Clause 36, page 35, after line 8 — To insert —
family violence has the meaning given in the *Restraining Orders Act 1997* section 5A(1);

Mr W.J. JOHNSTON: I move —

That amendment 1 made by the Council be not agreed to.

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In the other house, the shadow minister said that it is not a fundamental human right to be protected from domestic violence. I do not understand this. I do not know why the Liberal Party does not believe that it is a fundamental human right to be protected from domestic violence. I will not directly quote the uncorrected *Hansard*, as I understand that the member has not yet been able to correct it. I am not saying that these are his direct words, but the words currently recorded are —

... to remove the word “fundamental” out of the bill ... it is simply fluff

That is what the shadow minister, on behalf of the Liberal Party, says about the concept of —

Mr D.C. Nalder: If you want to get into a full debate, we can do that.

Mr W.J. JOHNSTON: I am just making it clear to members —

Mr D.C. Nalder interjected.

The SPEAKER: Member for Bateman! Members, do not forget you are still on your previous calls.

Mr W.J. JOHNSTON: This is the point. Let me make it clear: this amendment will be disagreed to. If it returns to the other chamber and the Liberal Party insists on the amendment, that means the bill will be defeated. Do members understand that?

Mr D.C. Nalder: But you don’t need to politicise it.

The SPEAKER: Excuse me, member for Bateman.

Mr W.J. JOHNSTON: I am not politicising anything. I am not the one who asked for this —

Several members interjected.

The SPEAKER: Members, you are still on the same calls as before.

Mr W.J. JOHNSTON: The Labor Party is not the one that asked for this bill to be referred to a committee, participated in the committee and then rejected the outcome of the committee. Here is the committee report. This committee report is signed by Hon Dr Sally Talbot, Hon Nick Goiran, Hon Pierre Yang, Hon Simon O’Brien and Hon Rick Mazza. It was a unanimous report, and the Labor government accepted every single recommendation out of this report.

Then we were stabbed by the Liberal Party because it opposed the fundamental behaviour of the bill. The opposition’s shadow minister went into the chamber and spoke against the bill; he spoke against every element of the bill —

Maybe the application was not run properly. Domestic violence was raised, but in what fashion? ...

... The tenant remained liable for the rent and any damage under the tenancy ended.

That does not tell us that it could not be dealt with under the hardship provisions.

The Liberal Party criticised this bill because it puts the victim at the centre —

Apparently, this is justification for the legislation being unashamedly victim focused.

That is the Liberal Party’s objection to this legislation—that it is victim focused. What a disgrace!

Point of Order

Dr M.D. NAHAN: The minister is reading from a document. Can he table it? The document is not available to us.

Opposition members: It’s *Hansard*!

The SPEAKER: Members! I will make a decision on this, not you.

Dr M.D. NAHAN: He is reading from the uncorrected *Hansard*. He has brought in this bill at this time, on the last sitting day. We have not had time to verify what he is saying. He is reading from the uncorrected *Hansard*, which by definition is not valid, and he is making some arguments.

The SPEAKER: I have your points. It is not an official document, on the first one. But, minister, you cannot quote the uncorrected *Hansard*.

Debate Resumed

Mr W.J. JOHNSTON: I checked with the Clerk prior to doing this. The Clerk advised —

Several members interjected.

Mr W.J. JOHNSTON: No, I am just telling you what happened.

The SPEAKER: No, I have just given a ruling

Mr W.J. JOHNSTON: I understand that.

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The SPEAKER: I have been told that you cannot.

Mr W.J. JOHNSTON: Yes; I am not quoting from uncorrected *Hansard*. I am referring to comments —
Several members interjected.

The SPEAKER: Members!

Mr W.J. JOHNSTON: I am reading from a document. I am not claiming to read from *Hansard*. I am quoting a document. I am quoting the words that were used. If there is any question that this is not what Hon Michael Mischin said, get up and tell us. The question for the Liberal Party right now is: is it a fundamental human right or not?

Mr P.A. KATSAMBANIS: On this amendment and the issues that have been canvassed by the minister in moving amendment 1 —

Mr W.J. Johnston: We are disagreeing.

Mr P.A. KATSAMBANIS: In essentially speaking against it, someone has to move it so it can be considered. Anyway, the minister has spoken against it. To address the issues that he raised —

Several members interjected.

The SPEAKER: Members!

Mr P.A. KATSAMBANIS: He raised a number of issues. First of all, let us be clear about the process that has led us to this point today. This bill was introduced earlier this year into this place. It was debated in June and it was passed by this place. Members of the opposition had an opportunity and spoke on it; members of the government had an opportunity and spoke on it. Issues were raised; however, the bill was passed. That is fine. It went to the other place in June this year. Since that time it sat on the other place's notice paper until it was referred unanimously by all members of the house on, I believe, a motion of the Leader of the Government in the other place. The Leader of the Government in the other place moved a motion that was supported by every single member of the Council to refer it to the Standing Committee on Legislation. The motion moved by the minister, the Leader of the Government in the other place, Hon Sue Ellery, included a return date, which was some time earlier this month I believe.

Mr A. Krsticevic: The twenty-second.

Mr P.A. KATSAMBANIS: It was 22 November, so it was the government, the Leader of the Government, that chose to refer this bill to a committee in the other place.

Several members interjected.

Mr P.A. KATSAMBANIS: I did not bring anything up in here yesterday, and I am prepared to sit here for days! If you do not let me speak, I will be here till Saturday afternoon.

The SPEAKER: No, you will not.

Dr A.D. Buti: No, you won't. You'll miss your flight to London!

The SPEAKER: Member for Armadale, I call you to order for the first time. Members, can I just say that it is late in the day and everyone is tired; let us try to do this professionally.

Mr P.A. KATSAMBANIS: The Leader of the Government in the Legislative Council moved a motion to refer this bill to a committee. The Leader of the Government included the reporting date of 22 November. That is fine and good. The committee went ahead and did its work. The minister read out the members of the committee. They made a series of recommendations. That is great. The bill came back to the Legislative Council for consideration. Every member of the Legislative Council read the bill and the report. Some crossbench members chose to move amendments of their own. That was on top of the amendments that the government moved resulting from the committee's recommendations, and I think the government also moved a couple of other amendments that were not committee recommendations but were included in discussions and negotiations. Debate took place in the other place and that debate finished in the last hour.

I know that the government wants to get this bill through. I recognise that it can set its legislative agenda. What has happened since then is an absolute and utter disgrace. This evening we were presented with 24 amendments that were duly considered, recognised and accepted by a majority of the members in the other place. The Council provided us with a message that we are considering, saying that the 24 amendments that it believes we should make to this bill will make it a better law. That is the belief of the Council.

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I would like to form a considered opinion on that. Every member of the opposition would like to form a considered opinion on the message from the Council. However, we are not able to do so because whilst this debate has been going on in the Council, we have had our debates in here. We knew where it would end up anyway. We were presented with these amendments that are now before the house—what?—five or 10 minutes ago.

The SPEAKER: Minister, are you going to move that the amendment be agreed to or not?

Mr W.J. JOHNSTON: When I asked about doing them en bloc, I made it clear—I apologise if I did not do that—that amendment 1 is disagreed to.

I want to make it clear what is happening here. The Liberal Party voted for this amendment in the other house. The Leader of the Liberal Party is sitting on the bench right in front of me. He is the member for Riverton. The Liberal Party supported the amendment. The effect of the Liberal Party supporting this amendment is to remove the word “fundamental” from this bill. The bill currently states —

that family violence is a fundamental violation of human rights and is unacceptable in any form;

That is what the Liberal Party disagrees with. We will not support this amendment. We are going to vote against this amendment. We are going to send it back to the other chamber. If the Liberal Party vote again to say that domestic violence is not a fundamental violation of human rights, the bill will cease to exist and we will not have the power to bring in another piece of legislation to do with residential tenancies and family violence in this term of Parliament. Do members opposite understand that? They are the Liberal Party.

Several members interjected.

The SPEAKER: Members, let him have his say.

Mr W.J. JOHNSTON: The Liberal Party voted in the —

Dr M.D. Nahan: Prove it! Show us!

Mr W.J. JOHNSTON: Where do you think this came from? You have a copy of the —

The SPEAKER: Minister, through the Chair!

Mr W.J. JOHNSTON: I can see a copy of the message on the desks of both the member for Bateman and —

Several members interjected.

The SPEAKER: Members!

Mr W.J. JOHNSTON: I am not quite sure—the Liberal Party voted to support this amendment and the Labor Party voted to oppose it.

Dr M.D. Nahan: How do you know?

The SPEAKER: Leader of the Opposition, you are on three calls.

Mr W.J. JOHNSTON: You are the Leader of the Liberal Party.

Mr P.A. Katsambanis interjected.

The SPEAKER: Member for Hillarys!

Several members interjected.

The SPEAKER: Leader of the Opposition, you are on three calls. Member for Darling Range, you are on three calls. If you want to have this debate, listen, have your say like everyone else does, but do not shout out. Otherwise, you will not be here at the end of the debate.

Mr W.J. JOHNSTON: Thank you very much, Mr Speaker.

Let me make it clear: the Liberal Party voted in a division to delete the word “fundamental”. That is what happened. Is the Leader of the Liberal Party in Western Australia saying that he does not even know what his own members do in this building? Is that what he is saying? Let me make it clear: I, all the people on this side of the chamber and most people on that side of the chamber—I wonder about the member for Dawesville—believe that family violence is a fundamental violation of human rights. We are going to insist that that is included in this bill. If the Liberal Party is going to say that it is not, it is saying that it wants this bill to fail! Do you get that?

Dr D.J. Honey interjected.

The SPEAKER: Members! Member for Cottesloe!

Mr W.J. JOHNSTON: That is the way parliamentary procedures work. This bill has been through this place, where every single person supported it. The word “fundamental” was in there. It went up to the other chamber and

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the Liberal Party voted to change it. Now members opposite are asking me about their own party's behaviour. The Liberal Party divided and voted for this amendment. We are going to vote against it for the second time. We are being consistent. Let me make it clear: this will not be in the bill because we will not support it. The Liberal Party apparently thinks that family violence is not a fundamental violation of human rights. It wants this bill to fail because of its view.

Dr D.J. Honey interjected.

Mr W.J. JOHNSTON: Let me make it clear, member for Cottesloe: the Liberal Party has put us where we are today.

Several members interjected.

The SPEAKER: Members!

Mr D.C. Nalder interjected.

The SPEAKER: Member for Bateman!

Mr W.J. JOHNSTON: I remember that the member for Scarborough yesterday said that this bill would be here at three o'clock today. That is exactly what she said sitting right there.

Mrs A.K. Hayden: She can't control Hon Rick Mazza!

Mr W.J. JOHNSTON: You cannot control your own members! Here they go! They are blaming the person who moved the amendment, but the Liberal Party voted in a division for this amendment. That is what the Liberal Party did. I would like to know from the member for Riverton why you voted for it.

Dr M.D. Nahan: Go through the Speaker!

The SPEAKER: Member for Hillarys!

Dr M.D. Nahan: You've had too much alcohol!

Suspension of Member

The SPEAKER: You are on three calls, Leader of the Opposition. You will withdraw that straight away or you are on your way home.

Dr M.D. NAHAN: What did I say?

The SPEAKER: You said, "You've had too much alcohol." I am only this far away from you. If you deny it —

Dr M.D. NAHAN: I am not talking to you.

The SPEAKER: Pardon?

Dr M.D. NAHAN: I was not mentioning or looking at you.

The SPEAKER: No, you were talking to him.

Dr M.D. NAHAN: It was somebody else.

The SPEAKER: Leader of the Opposition, I call you to order for the fourth time. You will now leave the chamber.

Dr M.D. Nahan: This is democracy in our state!

The SPEAKER: Leader of the Opposition, leave the chamber now or I will name you.

Several members interjected.

[The member for Riverton left the chamber.]

Dr D.J. HONEY: I do not see why our leader should be taking insults from the Treasurer across the chamber.

The SPEAKER: Just sit down, please. This is serious business—not toy time! You give it from both sides. You are in a grown-up environment.

Debate Resumed

Mr P.A. KATSAMBANIS: Mr Speaker, can I have the call?

The SPEAKER: Member for Hillarys—the only sensible one at the moment.

Mr P.A. KATSAMBANIS: I do not know—do not get too carried away yet! You might want to retract that in a minute.

The people of Western Australia deserve a Parliament not a circus. Unfortunately, this minister is turning this place into a circus.

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Point of Order

Dr A.D. BUTI: This is consideration in detail. Can we talk about the amendment to the clause. We have not even got on to the clause.

The SPEAKER: That is not a point of order, but you will get back to the clause.

Debate Resumed

Mr P.A. KATSAMBANIS: I will. However, this minister's actions are leading us into nowhere land, because he came in here and started quoting from uncorrected *Hansard*. He said that certain people supported this amendment and others did not. I would like to take the minister at his word, but after his slanderous actions in this place yesterday afternoon, again during completely different business referring to the proceedings of the other place on this bill, I cannot take him at face value. As I was saying before the minister decided again to stymie what I was saying by jumping up and cutting me off halfway through, he is trashing conventions and trashing the understanding that government and opposition will get an opportunity to develop their arguments on this. We are not going to develop every single argument on every single clause. That is not our intention, but we can do it if the minister wants. That is okay; that is fine. We have here a claim made by a minister who does not have the best reputation for being accurate. He comes in here and starts quoting from uncorrected *Hansard*. What we as an opposition deserve and what the public of Western Australia's deserves from its politicians is the ability to properly scrutinise legislation and properly scrutinise amendments.

The SPEAKER: Can you get back to the amendment, please.

Mr P.A. KATSAMBANIS: This amendment 1 was passed by the Legislative Council. I do not know why and I do not know how.

Several members interjected.

The SPEAKER: Members!

Mr P.A. KATSAMBANIS: Do members know why I do not know? It is because I was in here transacting business of the Assembly as an elected member of Parliament, and the only way I can find out what the debate was and what the various arguments were is to calmly read the *Hansard* from the other place, but I have not had that opportunity. The opposition has not had that opportunity. None of the ministers or members have had that that opportunity unless they were listening in to the debate in the other place, and that is fine; they can do that if they want. I did not have that luxury. None of us in the opposition had that luxury. We are not prepared to take the minister's word for it. We debated this bill in this place and we raised some issues, but we did not raise these issues. However, to be fair to the other place, to be fair to the concept of a bicameral parliamentary democracy, we deserve the opportunity to scrutinise what has been presented to us. Those members in the other place deserve the same opportunity to know that we have properly considered their thoughts. A majority of the Legislative Council decided to send this amendment to us. I will be frank. I put on the record that I look at it and I think, "Why did they do it?" I could take this minister's word for it, but as I said, his track record does not allow me to do that. I want to have a look at it and I think every other member needs to have a look at it. We take a parliamentary position on this. This will become law. If we do not properly consider this and if we get into one of those fights between the houses, what will happen is exactly as the minister described: we will not get legislation in this area. If we do not, it is not going to be because of the opposition, it is not going to be because the Liberal Party, the National Party or the crossbench in the other place; it will be because the obstinacy and the pig-headedness of this minister. It is as simple as that. Let the public know that; let the public record record that. All we are asking for is an opportunity to scrutinise these changes.

Mr W.J. JOHNSTON: I do not intend to speak again. Let me make it clear.

Mr A. Krsticevic interjected.

The SPEAKER: Member for Carine, you are on three calls. Do you want to go home with your leader?

Mr W.J. JOHNSTON: I find it bizarre that the Liberal Party come in here and ask me why this amendment was carried when it was the Liberal Party that voted for the amendment.

Several members interjected.

Mr W.J. JOHNSTON: The member for Nedlands interjected by saying, "But they are in another house", as though there are two Liberal Parties. There is the Liberal Party led by the member for Riverton, and then there is a different Liberal Party in the other house. I do not understand that. I thought that it was the Liberal Party. I never knew that in fact in Western Australia there were two separate organisations. I must say I only see in the affairs of the Electoral Commission one Liberal Party recorded, and it is called The Liberal Party of Australia (Western Australian Division).

The SPEAKER: Minister, can you talk about the amendment please.

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Mr W.J. JOHNSTON: Indeed. I am saying that the Labor Party voted against this amendment in the other house and we are voting to disagree with the amendment here. The Liberal Party supported this amendment in the other house. When the bill goes back to the other house after it has been disagreed to, the Liberal Party will have a choice. If it votes in the other house to support this amendment, the bill is defeated and we cannot legislate again on this topic. Let me make it clear: I do not know why the Liberal Party voted in favour of this amendment. Only the Liberal Party can answer that question.

The SPEAKER: Minister, we are talking about the bill.

Mr W.J. JOHNSTON: I do not agree with it, because I believe that family violence is a fundamental violation of human rights. If the chamber, members, and Mr Speaker believe that family violence is a fundamental violation of human rights, vote with the Labor Party to disagree to this amendment. If members do not think that it is a fundamental violation of human rights, vote to agree to the amendment. I am moving that we disagree with this amendment, because I, as the minister, absolutely say that family violence is a fundamental violation of human rights. I am disappointed that the shadow Minister for Commerce has said in the other chamber that he does not believe it. I am also disappointed that he said that it is fluff to include the word “fundamental” in the bill. I am also disappointed with many of the other words he used about this legislation. It would be great for the Leader of the Opposition to have not been so disrespectful of the Chair and get thrown out today, because I want to understand what it is about the member for Riverton and why he thinks the Liberal Party does not think that family violence is a fundamental violation of human rights. That is what his Liberal Party did today. It voted to say that it is not a fundamental violation of human rights. I would love the member for Riverton to explain to me why the Liberal Party has that position.

The SPEAKER: He cannot; he is not here. Can we get back to the bill.

Mr W.J. JOHNSTON: Perhaps the member for Dawesville or somebody else, maybe the member for Cottesloe, wants to get up and explain why we should not disagree with this amendment.

The SPEAKER: Members, I do not want everyone to go over the same thing we have just said before from both sides. All we want to know is whether amendment 1 be disagreed to. We will leave personal attacks and all that out.

Mr P.A. Katsambanis interjected.

The SPEAKER: I am not having a go at you, I am just saying that we want to get through it.

Mr P.A. KATSAMBANIS: I was about to start; I thought you had finished. Thank you for your guidance, Mr Speaker.

The minister raised a number of issues that need to be addressed. First, again, the minister is making an assertion that a member of the other place said something in the other place with no ability whatsoever for us to check the record.

Withdrawal of Remark

Ms M.M. QUIRK: I refer to standing order 92. The member has persistently made imputations about the veracity and integrity of the minister and I think he needs to withdraw.

The SPEAKER: It is not really a point of order, but I think we had better get away from personalities and get back to the bill on both sides.

Debate Resumed

Mr P.A. KATSAMBANIS: I agree we should be getting away from personalities and back to considering the contents of the bill. It is very important to put that on record.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen!

Mr P.A. KATSAMBANIS: The minister is making an assertion about something that cannot be checked by the opposition. That is the dilemma here. In the few minutes that the minister was on his feet the last time, I had some information conveyed to me that perhaps—it is a “perhaps” because I have not checked the record and it is just bits and bobs—shows us the dilemma that the government has created for the Western Australian Parliament by trying to ram through this legislation. Essentially, I have been told that the debate in the other place rested on whether the terms should say that family violence is “a fundamental violation of human rights” or that family violence is “a violation of fundamental human rights”. It is a drafting error. I think people know by now that I do not get stuck on these sorts of things unless and until it has an actual legal difference. I have had some significant professional experience in reading United Nations human rights documents, so perhaps I might have a little bit of knowledge in this area. I have not heard of the concept of “a fundamental violation of human rights”. I have heard of “a violation of fundamental human rights”. Those three words usually go together. But again, if we had had the

opportunity to have a better discussion with the members of the other place and seen the debate, we may not be in this silly position of arguing over words.

Would it make a significant difference if the drafting was “a violation of fundamental human rights”, rather than “a violation of fundamental human rights”? I do not think it would make a significant difference. It also would not make a significant difference whether the word “fundamental” appeared. The minister is playing word games and perhaps the people in the other place were also playing word games—I do not know. I have not had the opportunity to scrutinise what they have done. We are in this crazy dilemma of a minister coming in here and making a series of assertions, continuing the assertions that he made yesterday that were completely incorrect, rather than giving us the opportunity to scrutinise this properly. Had amendment 1 come to this place and the government supported it, we would obviously say, “Yes, the Council considered it, the government considered it and we will go ahead with it.” Now we are stuck in this word game.

Whatever we do here is irrelevant. I know that and the minister knows that. If the government in this place chooses not to support amendment 1 from the Council, it will fail and then the message will return to the other place that it has failed. If that happens, I cannot control what will happen in the other place any more than the Leader of the House can. Perhaps the Leader of the Government in the other place might like to get some control because until now that has not been evident. If she did, we would not be in the ridiculous situation that we are in here tonight.

Mr W.R. MARMION: I just want to ask a simple question. I am not making a statement like everyone else has done. This is important. I want to know this, because I do not know would happened in the upper house because I was busy.

Mr P. Papalia interjected.

Mr W.R. MARMION: I do not need an interjection.

I am trying to understand the actual words in the bill, because it is something I do not really know. I want to know the answer to this question. Clause 5 starts off with the words —

... the court must have regard to all of the following principles ...

Surely that is very important. We are talking about a principle. I agree that the prevention of family violence is an important principle. However, what I would like to know from the minister is: once we have decided that this is a principle, what is the difference between the words “family violence is a fundamental violation of human rights” and “family violence is a violation of human rights”? Does the word “fundamental” actually make it weaker? I would like to know what the legal opinion is on that, please.

Mr W.J. JOHNSTON: I am sorry, but I cannot answer a question about an amendment that I did not make—all right? I do not understand this. This was the Liberal Party’s vote. The Liberal Party voted to support this amendment. I would have thought members opposite would have come in here to tell us why the Liberal Party thinks this is —

Mrs A.K. Hayden interjected.

The SPEAKER: Member for Darling Range, you are on three.

Mr W.J. JOHNSTON: I would have thought the Liberal Party, given that it voted to do this, would have come in here and explained it to me. We do not agree with the Liberal Party’s position. I do not understand why members opposite are so embarrassed to explain to us why this change is necessary. We do not agree with the change and we are not going to support it.

Dr D.J. HONEY: I am somewhat struggling to understand the vitriol of all this when it comes to the application of the whole bill. Can the minister please explain to me whether this will in any way whatsoever change the way in which this bill is applied to protect victims of domestic violence? The argument is not about whether the minister thinks it is fundamental or not, but whether the absence or presence of this word will change in any way whatsoever the application of this bill to protect victims of domestic violence.

Mr W.J. JOHNSTON: I do not want to prolong the debate, and I am not sure what the member wants me to say, but let me make it clear. These provisions were written into the bill at the request of the Chief Magistrate, to make the purpose of the bill clear. The deletion of the word “fundamental” will make it very clear to everybody in this room that the Liberal Party wants to change the impact of what is being asked for. The Liberal Party knows that, because the Liberal Party voted to remove the word “fundamental”. So member for Cottesloe, what I would ask is: why does the Liberal Party oppose the word “fundamental”?

Extract from *Hansard*

[ASSEMBLY — Thursday, 29 November 2018]

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Mr Bill Johnston; Dr Mike Nahan; Speaker; Mr Peter Katsambanis; Dr David Honey; Dr Tony Buti; Ms Margaret Quirk; Mr Bill Marmion; Mrs Alyssa Hayden; Mr Tony Krsticevic; Mr Shane Love

Dr D.J. HONEY: I come back to it. The minister has his legal advisers here. I need to understand how in any way whatsoever the inclusion or omission of this word will change the application of this bill to protect victims of domestic violence.

Mr W.J. JOHNSTON: As I keep saying—I have already answered that question—this provision is included because the Chief Magistrate asked for this provision to set out the purpose of this bill. In drafting this provision, we have made sure that it includes the fact that family violence is a fundamental violation of human rights. The member for Hillarys said maybe the words should be “a violation of fundamental human rights”. If that was the Liberal Party’s position, I do not understand why it did not vote for that position. The Liberal Party voted to remove the word “fundamental”. I want to include that word, because I strongly believe that domestic violence is a fundamental violation of human rights. If we take the word “fundamental” out of the guiding principles, it suggests that it is not a major breach. I do not understand why the Liberal Party is asking me about the reasoning for its action.

Dr D.J. Honey: I have not asked you, minister.

Mr W.J. JOHNSTON: This is very confusing to me. This amendment was supported by the Liberal Party, yet not a single member of the Liberal Party will tell us why the Liberal Party supported the amendment.

Mr P.A. KATSAMBANIS: Members in this place, and perhaps the public of Western Australia who might be watching or might read this debate in the future, want to know why we are traversing through groundhog day. It is because of this minister. Two members of this place have asked the minister a relatively simple question: what is the difference if this word is included or is not included? He turned around and said: ask the Liberal Party. Minister, did the Liberal Party move this motion? No.

Mr W.J. Johnston: Yes.

Mr P.A. KATSAMBANIS: Okay. So it did. See? Exactly! I have made my point! I have made my point, because we have been in this place debating the government’s other important bills, not sitting in the Council listening to the debate. We have been landed this with five minutes’ notice before we get up on our feet. This amendment would not pass with Liberal Party support.

The SPEAKER: Can you talk to the amendment, please.

Mr P.A. KATSAMBANIS: It would not pass with Liberal Party support unless it was supported by many other parties. I do not know exactly which parties supported it because we do not have the *Hansard* and we have not seen the vote. That is the point we continue to make. We are not in disagreement with the minister. We do not have the capacity to reach a position on any of this.

Several members interjected.

The SPEAKER: Members on my right!

Mr P.A. KATSAMBANIS: If the minister does not understand that, then we are all in a hell of a lot of trouble. As I said, we do not even know with any certainty who moved this amendment, let alone who voted for it, and the reasons they might have advanced in the debate, but the majority of the other place thought it was a good idea. The Liberal Party has nine out of 36 members of the Council—nine out of 36! The Liberal Party cannot control the Council.

The SPEAKER: Member, can you talk about the amendment. We are going round and round.

Mr P.A. KATSAMBANIS: I am talking about the amendment, Mr Speaker. I will continue. I apologise, but the minister is taking us round and round.

The SPEAKER: What we want you to do is to say whether you agree to the amendment or not.

Mr P.A. KATSAMBANIS: Okay. I am speaking to the amendment. The word “fundamental” has been deleted.

A government member: Why?

Mr P.A. KATSAMBANIS: We do not know why, because we have not had an opportunity to find out why. It is inappropriate to rely on quick text messages as the debate is going on. What I would have expected was advice from the minister as to why the message from the Assembly would make this bill so completely inappropriate that he would pull it. At the very least, if the minister did receive advice from the Chief Magistrate, as he indicated he did, he should provide that advice to the chamber to help us make our determination.

Mr W.J. JOHNSTON: I keep saying it. I do not want to keep getting up. I have twice now said that if we remove the word “fundamental”, it implies that it is not a major breach. I have said that twice. Do not sit me down, Mr Speaker, because I am being repetitious, but I have also twice said that this provision was included because the

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Chief Magistrate asked for the guiding principles to be included. I have twice said—once in answer to the member for Cottesloe and once in answer to the member for Nedlands—and I again say that that is what has happened. That is why we think this word needs to be in here. I go one step further—I apologise that I am repeating myself, but it is very frustrating—and say that the Labor Party, the Labor government and all the people who have been involved in the negotiation of the bill, including groups like the Real Estate Institute of Western Australia, agree that family violence is a fundamental violation of human rights. I do not know why the Liberal Party voted in favour of this amendment. As I said to the Leader of the Opposition yesterday, if the Liberal Party voted with the government, this amendment would not have passed. Let me make it clear: we do not have the numbers in the other house, but, together, we and the Liberal Party could have defeated this. For some reason, the Liberal Party thinks that the term “fundamental violation of human rights” is fluff. I do not agree that it is fluff.

Mr P.A. KATSAMBANIS: It is interesting what happens when we get information from other places. The minister insists that this amendment was moved by the Liberal Party.

Mr W.J. Johnston: No; I said that it was supported by the Liberal Party.

Mr P.A. KATSAMBANIS: No, you did not. Get up and correct the record—go on!

Mr W.J. Johnston: Sit down and I will.

Mr P.A. KATSAMBANIS: I have been informed —

The SPEAKER: You have asked the minister to do what you want him to do.

Mr P.A. KATSAMBANIS: I am allowed to develop my argument, surely.

The SPEAKER: You just asked him to do something.

Mr P.A. KATSAMBANIS: I have been informed that this amendment was moved by the member of the Shooters, Fishers and Farmers Party in the other place. Unfortunately, the minister told this house that it was moved by the Liberal Party. We indicated at the time that we could not know because we do not have the record. Clearly, the minister did not know either. He either made a mistake or deliberately misrepresented the position. In interjection, he said no, he did not and he said that the Liberal Party supported it. No. Unless my ears are not working, and all members’ ears are not working, he did not say that. He said that the Liberal Party moved it and supported it.

The SPEAKER: Member for Hillarys, can we get back to the amendment. It is not a character assassination by both sides.

Mr P.A. KATSAMBANIS: We are on the amendment.

The SPEAKER: We are talking about one amendment that will be allowed or disallowed.

Mr P.A. KATSAMBANIS: Correct. As I have pointed out before, give us the chance to scrutinise this and it might get easy passage. The fact is that right now the government has chosen to oppose this amendment. That is all well and good; the government has the numbers. At last check, we caught up by one after the Darling Range by-election, but we are still a fair way behind. The government is choosing to reject this amendment moved by the Shooters, Fishers and Farmers Party and supported by a majority of the Legislative Council. That is all well and good. Whatever consequences the minister spelt out before about the future of this bill are on the decision of the minister and the government.

Mr W.J. JOHNSTON: If anybody thought that I said, or if I did, that it was a Liberal Party amendment, I apologise and unreservedly withdraw. I am always happy to point out when I make a mistake and I will always correct the record when that is done. The motion is that the amendment be not agreed to. The reason we have to debate this amendment is that the Liberal Party voted to remove the word “fundamental”. A number of people have said in this debate that we are talking about semantics and about an individual word. That is right. I do not know why the Liberal Party thought it so important that it wanted to reject the findings in the standing committee report and agree to this amendment. I cannot answer that question. Only the Liberal Party can do that. Let us stop having a fake debate and go to a vote, because we will vote to disagree and the Liberal Party can make its own decision.

Dr D.J. HONEY: I still have not had a clear answer. As far as I can tell, the minister, with, it appears, the support of his members, is going to sink a bill that would fundamentally protect the rights of women —

Several members interjected.

The SPEAKER: Members!

Dr D.J. HONEY: — and some men who are subject to domestic violence on a word that, from everything that the minister has said, will make no material difference whatsoever to the application of this law. So it is a smart bit of

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wedge politics to score a Pyrrhic point, to sink a bill that will support people who have been subject to domestic violence.

Several members interjected.

Dr D.J. HONEY: I am serious. We can speculate all we like about another place. I am asking why the minister is going to potentially put some people at risk—risk that this bill would have protected them from—for as far as I can see a word that, however strongly we feel about it, that will make no material difference to the application of the laws resulting from the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018.

Mrs A.K. HAYDEN: I am concerned that when the member for Hillarys asked who moved this amendment, the minister laughed and said, “You did—the Liberals”, and denied even saying it by saying, “If I had said it”—you did say it. The ministers has advisers sitting there who were in the other chamber and are there to advise the minister on what happened in that chamber. The minister misinformed us, and now he cannot even tell us why that argument was put. The whole point of having advisers is to tell the minister why the argument was put.

The SPEAKER: Member, talk about the amendment, please.

Mrs A.K. HAYDEN: The minister has been asked by us why this amendment was moved, and the minister’s job is to tell us, by way of his advisers, why the amendment was moved in the other house —

Several members interjected.

Mrs A.K. HAYDEN: Yes, it is. It is! We do not know because we were doing our job in this place when stuff was going on in the other place. The amendments have been sent back to us and we have not even been given time to read or look at them or see *Hansard*. It is the minister’s job to advise why the amendment was moved and why he disagrees with it. He has not told us why the amendment was moved in the first place.

Mr A. KRSTICEVIC: Twenty-four amendments have been made to this bill, of which I believe 17 are supported by the government and seven are opposed. The minister has said that this bill was brought on only on Tuesday at nine o’clock. There has been a lot of debate over the last couple of days about the Liberal Party slowing this bill and its amendments down or acting as some sort of a blocker, when it is pretty obvious that of the 24 amendments 17 were very strongly supported by the government. One would assume that the Legislative Council debated these amendments at some length and recommended certain changes.

The SPEAKER: Are you talking about the first amendment?

Mr A. KRSTICEVIC: Yes. I understand that Hon Michael Mischin moved only three amendments to this piece of legislation. The rest were moved as a result of either the committee or the minor parties. We all know that the Legislative Council has 36 members, of whom nine are Liberal Party members. The minister keeps talking about, “The Liberal Party did this; the Liberal Party did that.” I am not sure how all these things can be done with only nine members in the Council —

The SPEAKER: You are not talking to the amendment, member. Do not make me sit you down. You are not talking to the amendment.

Mr A. KRSTICEVIC: Okay. The advisers were in the Legislative Council and were part of the process. Can the minister please explain to us—it is very simple; not that difficult—why this amendment was moved in the Legislative Council, the arguments used in favour of moving this amendment, and why the majority of members and parties in the Legislative Council supported it? It was not just the Liberal Party; it was also the Nationals WA and the Shooters Fishers and Farmers Party WA. It would not be very, very difficult to explain their arguments and why the minister or his advisers think those arguments were not valid. It is not good to think that democratically elected members do not have the right to ask these questions of this minister who is being so arrogant and making things up. I went to the other chamber and listened to some of the debate. The President was in the Chair —

The SPEAKER: Member, can you get back to the amendment, please.

Several members interjected.

Mr A. KRSTICEVIC: I was; I was listening to the debate on this amendment in the Council. I just want to say that I heard that the members in the Council used the words “lie” and “liar” lots of times there, and I was surprised they were allowed to get away with it. They were referring to a member in this place not telling the truth. I would hate the amendment in this message to go back to the other house. You can be a smart-arse down here.

Withdrawal of Remark

The SPEAKER: You will withdraw that remark.

Mr A. KRSTICEVIC: I withdraw.

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Debate Resumed

The SPEAKER: Sit down.

Mr A. KRSTICEVIC: Can I explain?

The SPEAKER: No; you sit down. I warned you three times.

Mr W.J. JOHNSTON: For the fourth time I will say the same thing, and I apologise.

Mr A. Krsticevic interjected.

Suspension of Member

The SPEAKER: Member for Carine, I call you to order for the fourth time. You will now leave the chamber.

Mr A. Krsticevic interjected.

The SPEAKER: Be very, very careful when you walk out and make comments like that, member for Carine.

[The member for Carine left the chamber.]

Debate Resumed

Mr W.J. JOHNSTON: I have answered this question. People say: Why does the Labor Party want the word “fundamental” included. I have told them. The advice I have is that this provision was included because the Chief Magistrate wanted a guiding principle to deal with the effect of the Residential Tenancies Legislation Amendment (Family Violence) Bill. The word “fundamental” makes sure that in making the decisions of the court, they understand that this is a major breach. It is not a minor matter. It is fundamental. That is what the word “fundamental” means. The suggestion from the member for Carine that somehow I am responsible for explaining an amendment that the Labor Party opposed is bizarre. Let me make it clear.

Dr D.J. Honey interjected.

Mr W.J. JOHNSTON: The advisers work for me, as it happens. If the Liberal Party does not know what the Liberal Party did, I do not get it. I thought the Liberal Party understood its role in life. I said yesterday in this chamber —

The SPEAKER: Minister, can you get back to the clause.

Mr W.J. JOHNSTON: I am talking about this clause. I am talking about the resolution that I am moving—that we will disagree with this amendment. I pointed out to the Liberal Party yesterday and I am pointing it out to the Liberal Party again today that we will disagree with these amendments. That does not make the bill invalid. Our disagreement will be returned to the other chamber and if the Liberal Party continues to support this amendment, the bill will lapse. That is the point I am making. The Labor Party—the government of Western Australia, the elected people in this state—believe this is essential to have in the bill. We believe that for two reasons. This is why I am moving that we disagree with amendment 1. Firstly, it is because of the professional advice I have received that this is an important provision of the bill. That is the professional advice. Members asked me to get the professional advice and I have done so, and the professional advice is that this is an important provision of the bill. In fact, one of my advisers pointed out that every word in a bill is important. The second set of reasons is that we do believe it is a fundamental human right.

Question put and passed; the Council’s amendment not agreed to.

Mr W.J. JOHNSTON — by leave: I move —

That amendments 2 to 6 made by the Council be agreed to.

Mr P.A. KATSAMBANIS: Amendments 2 to 6 were the amendments that have come down from the Council as I have pointed out before. Opposition parties have not had a chance to scrutinise the debate, the reasons behind the amendments but, obviously, in the Council—these points stand for all the other amendments that are passing through uncontroversially—the Council considered this bill in great detail by sending it to a committee and considered it again in great detail during this week in its debate and then in what the Council calls the Committee of the Whole House proceeding, which is equivalent to our consideration in detail. They had the majority will of the Council. I think some of the amendments were passed unanimously. At this late stage, without having been privy to any of the debate, really, other than the occasional member such as the member for Carine who popped in for a while in between other parliamentary duties, we are quite comfortable in supporting the amendments put to us.

Mr W.J. JOHNSTON: Briefly, amendments 2, 3 and 5 are committee amendments that arise out of the unanimous report. I understand that amendment 4 is a Greens amendment, which the government was happy to support.

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Amendment 6 is quite important. We were negotiating with the opposition in good faith because we were trying to come to an agreement so we would not have to go through this drama. Amendment 6 is not something that the government would have chosen to move, but because we thought we were getting an agreement from the Liberal Party, we moved the amendment. It is to clarify the wording of the bill, which is why the paragraph has the “(aa)”. It is clearly an additional matter. We were trying to accommodate the proper interests of the opposition by moving amendment 6. Unfortunately, although the government thought it had the opposition’s agreement, clearly we did not.

Mr R.S. LOVE: I want to put on record that we have had this discussion tonight and on amendments 2, 3, 4, 5 and 6, which the government is agreeing to, the National Party will also agree to. Like the Liberal Party, I would like to put on the record that we have not really had an opportunity to fully consider any of these amendments that have been put forward tonight. In my view, it is quite a dysfunctional process to have this many amendments to purview without really being able to talk to anyone about them. The members of the National Party from the Legislative Council have gone from the place so there is no-one to confer with, other than via text messages I have had with one of our members up there throughout the day about what has been going on. It is my understanding that even in the other place, members were presented with amendments that they had not had time to look at today. They were similarly told that the bill needed to be pushed through without a decent length of time to look at things. This bill has been in the upper house since June. It returned to the house in October. There has been plenty of time to discuss this. We are at the end of the sitting week. We will have to be here after —

The SPEAKER: Member, we are talking about amendments 2 to 6.

Mr R.S. LOVE: I am talking about those amendments and why we will allow them to go through without opposition in this place. We are relying on the good work that the Council has done, but the work has been done at the very last minute. This is no way to responsibly pass legislation.

Mr W.J. JOHNSTON: I do not want to unnecessarily delay the house but I want to make the point that I was in error when I said that amendment 4 was from the Greens. It was a government amendment, but it was moved because the Greens requested it.

Question put and passed; the Council’s amendments 2 to 6 agreed to.

Mr W.J. JOHNSTON — by leave: I move —

That amendments 7 and 8 made by the Council be not agreed to.

Mr P.A. KATSAMBANIS: Again, without labouring the points made earlier by members of the Liberal Party and the spokesman for the National Party, we really are relying here on the good faith of the minister. In effect, what these amendments do is when a tenant provides written notice to a lessor that they intend to make a prescribed alteration and then they make that alteration and the alteration is made by a tradesperson, that a copy of that tradesperson’s invoice is provided by the tenant to the lessor within 14 days of the alterations being completed.

In the absence of any other information or of looking at the debate, all we can do is look at that and say, “That makes some good sense.” We need an explanation from the minister as to why he is not supporting it.

If members of the government think the subject matter of this bill is a laughing matter, let that be on the record, because this is not a laughing matter.

We know we are dealing with tenancies here and with additional rights being given to tenants to help protect them from domestic violence, but at the end of the day there is a tenancy relationship. We know that there are certain alterations that must be carried out by a licensed tradesman—for instance, a security door needs to be done by someone who holds a security licence. That is all well and good for the tenant who does the alteration, but if the alteration remains on a property after that tenant has gone and an issue arises between the new tenant and the landlord, the landlord could be in breach of their obligations if they cannot prove that that work has been done by a licensed or authorised tradesperson. It would make sense to me that some form of verification that a tradesperson did the alteration ought to be given to the landlord as protection for both parties. Axiomatically, that makes sense.

As I said, we have not been privy to that debate and we do not even know the reasons why the government is opposing this amendment. The government should not think it is onerous. To think about it logically: the tenant gives notice to the landlord and then engages a tradesperson to perform the work, and then gets a copy of the invoice from the tradesperson. That is work done by a tradesperson, and the tenant provides a copy to the landlord as verification. That is protection for all parties, including future tenants. I think that makes logical sense. As I said, it is an opinion, expressed basically, looking at the words before me, without having had the opportunity to look at the rest of the debate. It is something that sounds so sensible and, I believe, was proposed by the member of the Legislative Council who is a member of the Shooters, Fishers and Farmers Party. It is my understanding that he has significant experience in real estate matters—perhaps the most experience in real estate matters of all the people in Parliament—and is not someone who could be described as not being sensible; he is a very sensible

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individual. I served with him in the other place for four years, and got to know that he is a sensible individual. He does not come up with spurious or silly amendments. In his considered opinion he thought this should be included. As I have described, just from reading the words and reading the amendment in conjunction with the bill, it makes perfectly good sense. It imposes no real obligations on anyone other than a bit of an exchange of paperwork. Why is the minister so fundamentally opposed to it?

Mr W.J. JOHNSTON: In respect of amendment 7, the reason we are opposed to it is twofold. The first reason is that it creates another barrier for the victim of family violence. Let me make it clear: this is an obligation we are putting on the victim. We are doing that, even though they are the victim, because the landlord has proper rights and we do not want to disrespect the proper rights of the landlord. The bill states that the work has to be done by a qualified person, but this amendment means that the victim cannot access the benefit of the legislation unless they have paperwork. I do not agree with that. Not only that, it also makes the assumption that a person pays for the tradesperson. There is no reason to suspect that they must pay for the tradesperson. What happens if it is their brother or it is done by a non-government organisation that works in this area and does these sorts of things? I think there is a specific organisation that actually helps women deal with these matters, and there are no bills and no invoices, exactly as was explained in the other chamber. That is why we do not support this amendment, for two reasons, and I will say them again: because, firstly, there may never be an invoice. The amendment is worded “a copy of whose invoice”. There may never be an invoice, in which case the person cannot access the benefit. That is the first reason, and the second reason is that it puts another obligation on a person who is in a terrible circumstance. We accept, and that is why the bill makes it clear, that the installation and the make-good have to be done to a proper standard, because we respect and want to protect the proper interests of the landlord, but there is no need to go further and create an artificial set of procedures. In respect of amendment 8, again we see this thing about an invoice. For the exact same reasons, it is completely and utterly unreasonable to put that in the legislation. That is why we do not support it. Just understand: if we include these provisions, and a woman who is a victim of domestic violence does not have an invoice, she is in breach of the act.

Mr P.A. KATSAMBANIS: I hear the minister’s explanation, and I must say I think he doth protest a little bit too much, because no-one is imposing an onerous obligation; nobody is imposing a precedent condition for the tenant, the victim of domestic or family violence, to achieve before they get the work done. This is all post the work. I have a bit of sympathy for the minister’s position, again remembering that we have not been privy to the debate in the other place, and the actual reasons that this amendment was passed, so we are surmising. I have some sympathy for the minister’s position, because the work could have been done by a friend or relative who is a tradesperson. It could have been done by an NGO, but where a tradesperson is required to do the work, some sort of verification is still required that the work was done by a tradesperson, so there could be some other documentation. The minister could amend this to say, “a copy of whose invoice, or other verifying documentation, the tenant must provide”—or can provide; I do not like the word “must” in that case—“to the lessor within 14 days of the alterations being completed”. That would satisfy everybody. It would take into account the principle that Hon Rick Mazza advanced in the other place, and satisfy the concepts that the minister explained. The other issue that he implied was perhaps that the landlord pays for some of these alterations. I have not gone back to read it, but I recall making a comment in my second reading contribution that a good landlord, in many of these cases, not only would have approved these alterations, but may choose to happily pay for them, because they improve his or her property for the future. In that case I would imagine an invoice would be provided, so that the landlord could then pay, and that is what good landlords and good tenants do. That is what all good relationships are based on—a bit of trust and understanding. If the minister thinks that the only reason he opposes this provision is that if there is no invoice, it might not be able to be provided, then let us fix it up: “a copy of whose invoice or other verification is provided to the lessor within 14 days of the alterations being completed”. Send it back to the other place—we are sending this stuff back to the other place anyway—and I am sure nobody would object to that. It is logical and sensible. I ask the minister to show some good faith and do that.

Mr W.J. JOHNSTON: Member, to see the reason that we do not support this amendment, have a look at what we just agreed to in amendment 6. That deals with the issue that the member is raising. That is why we agreed. As I say, amendment 6 was moved for the express purpose that—after we spoke to the Liberal Party, and we understood the position it was taking, and we tried to accommodate it. Once we passed the amendment, we expected that the Liberal Party was then going to vote against Hon Rick Mazza’s amendment, but then we were ambushed and it voted in favour of it.

That is the whole point. That is what amendment 6 deals with. Let me make it clear: this amendment will grant to Consumer Protection additional powers that we do not have. There is no regulation of people who install security screen doors. That occupation is not licensed in Western Australia.

Mr P.A. Katsambanis: A security licence.

Mr W.J. JOHNSTON: No, they do not.

Extract from Hansard

[ASSEMBLY — Thursday, 29 November 2018]

p9022b-9043a

Mr Bill Johnston; Dr Mike Nahan; Speaker; Mr Peter Katsambanis; Dr David Honey; Dr Tony Buti; Ms Margaret Quirk; Mr Bill Marmion; Mrs Alyssa Hayden; Mr Tony Krsticevic; Mr Shane Love

Mr P.A. Katsambanis: That is under the police, isn't it?

Mr W.J. JOHNSTON: No, it is not. It is a fixture of the house. A person does not need a security licence to fix a security door, otherwise people who buy them in Bunnings and do them themselves would be breaking the law. There are no licensing arrangements. "Tradesperson" does not mean that the person is licensed. It is not a function of licensing.

Mr P.A. Katsambanis: So a plumber does not have to be licensed?

Mr W.J. JOHNSTON: A plumber does, but just because a person is a tradesperson does not mean that they are in a licensed occupation. Let me get back to this. What amendments 7 and 8 do is require an invoice. What the Liberal Party is saying is that it made a mistake when it supported this amendment and that it should have supported a different amendment. I get that, but let me make it clear. We do not support this for the two reasons I have already stated. I apologise for going over it again but I just want to make it clear: we do not need this amendment because it provides an unnecessary burden on victims and there may never be an invoice. If there is no invoice, then the tenant would be in breach of the act. That is crazy! We do not want to make victims, victims again. This is a law to help victims. It is essential that we keep victims at the centre of the debate. That is the problem with the amendments. As the member knows, there are make-good provisions in the bill already, so in terms of the interests of the landlord, they are 100 per cent protected. That is not what this is about. This is about the victim. I do not understand why the Liberal Party wants to increase the burden on victims.

Mr P.A. KATSAMBANIS: The minister has raised a couple of issues. First of all, he raised the context of why amendments 7 and 8 are not required. He raised the context of amendment 6, which was just passed a moment ago, that states —

(aa) the tenant must give written notice to the lessor of the tenant's intention to make the prescribed alterations; ...

It is notice of an intention, which is a condition of precedent. They do that beforehand. The government has agreed to that.

Mr W.J. Johnston: We did not want to, but we did.

Mr P.A. KATSAMBANIS: Therefore, the alterations get done. As I described earlier, this rather non-onerous obligation—very non-onerous obligation—is a condition subsequent. It is not stopping the tenant from getting the work done; it is not stopping the work from being done. Then the minister said, "Tradespeople don't have to be qualified." Perhaps, they do not, but why does clause 12(5)(b), which amends section 47 of the principal act and which amendment 7 proposes to amend, state "work on the prescribed alterations must be undertaken by a qualified tradesperson"? If they do not need to be qualified, why did the minister put "qualified tradesperson" in the bill to start with? Take that out, minister. The minister is tying himself up in knots looking for ways to reject what appears to the ordinary person in the street, as well as the majority of members of the upper house, to be clear. Again, I cannot say which members supported it in the other place. I assume government members did not support it, but I will not rule that out completely because I do not have the record. The minister comes into this chamber and says, "We are not supporting this because there might not be a qualified tradesperson." He wrote it into his own bill, "qualified tradesperson" —

(b) work on the prescribed alterations must be undertaken by a qualified tradesperson;

The subsequent section that we are amending is about a qualified tradesperson. It is on the same line. This amendment would only apply to work done by qualified tradespersons—no other work.

The minister is about the same vintage as me. I learnt long ago—probably when I was 18 or 19—that I am not the font of all knowledge. He should just accept sometimes that a different glance from a different group of people, such as we have seen tonight from the Legislative Council, might not make things worse and might not necessarily impose onerous obligations but would improve the government's legislation. As I said, I am prepared to meet halfway. It does not have to be an invoice but some evidence that the work was done. How onerous is that? Someone can phone a tradesperson, they come over, they give a quote, the quote is accepted, they do the work and they sign off on their letterhead, or their business card for that matter. It is written evidence; it does not have to be anything more than that. They just have to provide some evidence that they did the work. That is all we are asking for. I think that is all the Legislative Council was asking for. Maybe it got stuck on the word "invoice". I am giving the minister an assurance that I will not get stuck on the word "invoice". Let us get serious about this rather than play games.

Mr W.J. JOHNSTON: Yes, let us not play games. I say again that many qualified tradespeople are not licensed. A person does not have to be licensed to —

Mr P.A. Katsambanis: You have to be qualified.

Extract from Hansard

[ASSEMBLY — Thursday, 29 November 2018]

p9022b-9043a

Mr Bill Johnston; Dr Mike Nahan; Speaker; Mr Peter Katsambanis; Dr David Honey; Dr Tony Buti; Ms Margaret Quirk; Mr Bill Marmion; Mrs Alyssa Hayden; Mr Tony Krsticevic; Mr Shane Love

Mr W.J. JOHNSTON: A qualification determines whether one is competent.

Mr P.A. Katsambanis: You're quibbling on words again.

Mr W.J. JOHNSTON: This is ridiculous. A qualification is whether one is competent. Licensing is about whether one has a licensed trade. Many people are not licensed. The example the member gave was the person installing a security screen door. There is no licensing regime for that. The members asked: what is the evidence that the work is done? That is the work. This is about alterations.

Mr P.A. Katsambanis: What is the evidence that it is done by a qualified person?

The SPEAKER: Member for Hillarys, you had your opportunity.

Mr W.J. JOHNSTON: If the work is not done by a qualified tradesperson, the victim does not have access to the benefits of the act. This is about the victim. We are providing a right to the victim. This is the only thing we are arguing about. We are not arguing about the qualification of the tradesperson; we are arguing about the need to provide an invoice. Does the member understand that? That is the only thing that is in debate.

I will point out a third thing. Let us assume that these amendments were agreed to. That would mean that a tenant who did not produce an invoice would be subject to the penalties under the act, and they are extensive. I do not understand why the member wants to allow victims of domestic violence to be prosecuted in the Magistrates Court and fined for not giving an invoice to their landlord, because that is what the opposition is asking.

This amendment is unnecessary because an invoice may not exist. One cannot ask for something to be called into existence that does not exist. Given that that is the case, the opposition should not ask for it to be in the bill because that is clearly a nonsense. Let me make it clear that the evidence that the work is done is the work. If a screen door has been installed, the screen door is there. If a deadbolt has been installed, the deadbolt is on the door. That is the evidence that the work is done. Then there is a make-good provision, so the tenant has to restore the landlord's property to the state it was before the alteration was done. We are properly and reasonably protecting the interests of the landlord. I do not understand why the opposition would like to see victims of domestic violence criminalised for failing to carry out administrative procedures. There is no point to that.

That would not be a reason to subject them to the provisions of the act in that way. Let us not go down that path. The wording in the bill was prepared by professional staff with all the benefit of the Parliamentary Counsel's Office and all those other things, with the support of the Real Estate Institute of Western Australia, arising out of a review done by the former government that the member for Scarborough said was her idea—why are we opposing it?

Mr P.A. KATSAMBANIS: I stand up and shake my head. The minister has basically said, "Trust me." This minister, after all we have been through tonight, says, "Trust me."

The SPEAKER: Member, talk to the amendment, please.

Mr P.A. KATSAMBANIS: I am talking to amendment 7 and amendment 8.

The SPEAKER: No, you are talking about the minister. Get to the point, please.

Mr P.A. KATSAMBANIS: On these two amendments, the minister has said, "Trust me."

Mr W.J. Johnston: No, I haven't!

Mr P.A. KATSAMBANIS: Minister, I will let that sit on the record.

The minister has spoken about a number of concepts. The work needs to be done by a qualified tradesperson. How will it be verified? The minister says it will be verified by the work. There you go! Evidence that a qualified tradesperson did the work is the work! No, the work is evidence that the work was done. It is not evidence that the work was done by a qualified tradesperson. The minister says he does not want to subject victims to penalty in the Magistrates Court. As far as I am concerned, section 47 does not contain a penalty provision. Perhaps it does, but nobody wants to subject victims to penalty. We just want a fair and easy process; we could debate this around and around in circles. The minister says he will not accept these two amendments that were sent to us by the Council. Fair enough! With the government numbers, it will ram that through. Let it sit on the record.

Ms S.F. McGurk interjected.

The SPEAKER: Minister!

Mr P.A. KATSAMBANIS: The other issue the minister seems stuck on is invoices. As I said to him about two contributions ago, I agree with him that perhaps invoices are too limiting and do not cover all eventualities. But other verification documents can be provided, such as a simple piece of paper with, "Mrs Bloggs, carpenter, performed this work on the subject property." That is about it—whatever qualifications they need. I am using carpenter as an example. The minister can pick on that and say that a carpenter does not need a qualification, but

he has put “qualified person” in there. Rather than go around and around in circles, it is the minister’s choice. The Legislative Council has indicated its opinion. We have indicated, in very good faith, that we are happy to play around with the words in these amendments to make them complete—words that have been looked at in a different light since they came to us from the Council. The minister does not want to do that. After we vote on these and they pass, and they will pass because the government supports them—or rather, the government does not support them so they will be knocked out and the message will be sent back to the other place. All that is in the government’s hands. I am sure that if the government was going to support the type of amendment I suggested, which I or the minister could draft up in a jiffy—if the government was predisposed to support it I would do it. I think it would improve the work done by the Council even further, but the minister has indicated on behalf of the government that it will not support it. I will not waste the house’s time on amendments that will not get up, but after we rise tonight it will go over there and they will make their own decisions. I do not want to fetter another chamber of Parliament.

Mr W.J. JOHNSTON: I am only going to speak very briefly. I want to make it clear that the government will not support these amendments because they do not have victims at their centre. I want to make sure that there is absolutely no question about why we do not support these. We do not want to create additional red tape for victims. The member says that we could come up with another set of words, but that still means more red tape for the victims. I am sorry, that is a fact. I get the idea that when women have suffered from domestic violence it is a traumatic time in their lives. I do not believe anybody, except perhaps Hon Michael Mischin, would disagree with that. I think everybody agrees that that is the case. Why create unnecessary burdens? The member talks about the quality of the amendment. He says it is not a good quality amendment and he could come up with a better one.

Mr P.A. Katsambanis: I have said we should improve on the work they did.

Mr W.J. JOHNSTON: As the member says —

Mr P.A. Katsambanis: You are really good at verballing.

The SPEAKER: Members!

Mr W.J. JOHNSTON: The member said it could be improved upon. Let me make it clear that the words in the bill were drafted by Parliamentary Counsel of Western Australia following extensive discussions led by Consumer Protection of the Department of Mines, Industry Regulation and Safety. This can be taken back, I think, five years from when the review was done. These amendments have taken a long time to develop. The idea that additional words can be thrown in at the last minute and it will not have any impact is wrong. That is why the Real Estate Institute of Western Australia and all those other groups support the bill as presented. The Real Estate Institute of Western Australia has written to every member saying it wants the legislation through quickly. Let us not get hung up on the idea that we need an invoice, which is what we are debating, because we do not. Do not argue with what the government is asking. The government is asking the Parliament of Western Australia to disagree with this amendment because it is not needed. That is the reason we are doing it. The reason the amendment is not needed is that it is not victim focused.

Mr R.S. LOVE: I want to go back to some of the things that the minister just said to explain why the government is opposed to this matter. First of all, just to reiterate, there has been very little time to look at any of these provisions, including the amendments that have already been passed, such as amendment 6. The minister has said that this amendment would add red tape when people are going through a traumatic period in their lives and it does not want it to lead to a greater burden on them being able to undertake the work on the tenancy they would like to see done. He also said that the provision was inserted at the last minute. I want to point out for the record that I really have not had a chance to look at these provisions. I point that out again because it is important to note. The provisions that the minister’s own government brought into the house today and that he has supported again in this house ask for written notice to the lessor of a tenant’s intention to make prescribed alterations. Surely that is a much more onerous provision when a person is going through a traumatic episode than providing an invoice two weeks later.

Mr W.J. JOHNSTON: I apologise to the member for Moore; he must not have heard what I said before. When I was talking to the member for Hillarys, I drew attention to the fact that amendment 6 was our concession to avoid amendments 7 and 8. We did not want it, but we were prepared to insert it because we were trying to be cooperative—because we thought the Liberal Party was helping us. We did not realise that the Liberal Party was going to vote in favour of Hon Rick Mazza’s amendment. Had we known it was going to do that, we would not have moved amendment 6. We are still supporting it in this chamber in good faith because it was a government amendment and it would be ridiculous for the government not to support its own amendment, even though we only moved it because we thought it was satisfying the Liberal Party’s demands. We do not want to make the tenant give written notice, but we acceded to that because the Liberal Party asked us for it. I make it clear that the written notice could be a text message or an email; it does not have to be onerous. Yes, the member for Moore is

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100 per cent right; I absolutely agree with him. Amendment 6 creates unnecessary red tape for the victim and I wish we had not moved that amendment, but we did and, in keeping with good faith, we are proceeding with it. The reason we are proceeding with it is that we do not agree with amendments 7 and 8. They are an alternative to amendment 6. I do not understand how anybody can support amendment 6 and also support amendments 7 and 8, because amendments 7 and 8 are contradictory to amendment 6.

They will create a second level of red tape. A victim has to comply with amendment 6 and then they have to comply with amendments 7 and 8. It is an addition; it is more. I agree with the member for Moore that we have already created an unnecessary burden on the victims through amendment 6, and now the Liberal Party is asking us to put even more burden on victims. We do not agree with that because our view is that the legislation is focused on the needs of victims. Of course, we want to properly respect the needs of the landlord and that is why we have these provisions, but it is the victims who we are worried about.

Mr P.A. KATSAMBANIS: I want to make a very quick observation. I do not want to be pedantic in correcting the minister and the record, but the minister keeps coming up with the term that the Liberal Party wants the minister or the government to do something. I want to stress again, as I have stressed throughout the debate, that we are not debating a Liberal Party amendment.

The SPEAKER: Talk to the clause, please.

Mr P.A. KATSAMBANIS: In amendments 7 and 8, as well as every other amendment before us, we are debating amendments that have been passed by a majority of members of the Legislative Council and in some cases passed by a unanimity, I believe, of the Legislative Council. Not these two.

Mr W.J. Johnston: Not 7 and 8.

Mr P.A. KATSAMBANIS: Not amendments 7 and 8, I accept that. But amendments 7 and 8 have been passed by a majority of the Legislative Council. The Liberal Party comprise 25 per cent of the make-up of the Legislative Council; it is not the majority.

The SPEAKER: Member, we have been there before.

Mr P.A. KATSAMBANIS: We have been there before, but every time the minister wants to misrepresent the record, it is duty bound on other members of Parliament to correct the record.

Mr W.J. JOHNSTON: I do not want to take up unnecessary time, but if I misled the Parliament, I would apologise and withdraw. But let me make it clear: the reason we are dealing with amendments 7 and 8 is that the Liberal Party voted for them. If the Liberal Party voted against them, they would not be here. That is what I keep saying. It blows my mind that the Liberal Party in this chamber does not understand that the reason we are having this debate at 8.41 pm on the last night of Parliament is that the Liberal Party voted in favour of them.

Mr Z.R.F. Kirkup: I think it is because you could not manage the upper house, minister. But, whatever!

The SPEAKER: Member!

Question put and passed; the Council's amendments not agreed to.

Mr W.J. JOHNSTON — by leave: I move —

That amendments 9 to 14 be agreed to.

Mr P.A. KATSAMBANIS: Amendments 9 to 14 are uncontroversial. I believe all these amendments were agreed to unanimously by the Legislative Council. The government supported them in the other place. Obviously, all other parties and members supported it. It passed, it has come here, the government is indicating support and we are indicating support as well. Because of some other things that have been said earlier, I should put on the record that it has been communicated to me—I say it in that way because of the points I made earlier about the inability to check the record of what happened in the other place, and if I get it wrong, the minister will correct me; I apologise in advance if I do—that the Liberal Party either suggested or moved only two amendments in this set of amendments that have been sent to us, clauses 11 and 14, about a review of these provisions. I am not sure whether, upon proposal by the Liberal Party in the other place by the shadow minister Hon Michael Mischin, they were then put to the other place or whether the government adopted a slightly different version and put that version, but either way these two amendments are the ones that have arisen through the separate intervention of the Liberal Party members over and above their contribution to the committee process in the other place. Otherwise, as I said, the government clearly supported it in the other place and it is supporting it here. Clearly, these amendments will pass.

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Mr W.J. JOHNSTON: I will briefly explain some of these amendments. Amendment 9 is a committee recommendation, and obviously, as I said previously, we have accepted the unanimous report. Amendment 10 is a correction that came from the agency. I want to remind members about what happened with amendment 11. When the bill was in this house, the National Party asked for a review. We agreed to that. We proposed a five-year review. We had parliamentary counsel draft a clause. We made a commitment to the member for Warren–Blackwood and gave him a copy of the amendment, and we placed it on the supplementary notice paper when the bill arrived in the other place. That provided for a review after five years. It was a standard review provision.

Amendments 11 and 14 were moved by Hon Michael Mischin. They are very prescriptive about the manner in which the review should be done. We do not agree with that. However, we did not want to have an argument about the technicalities, and that is why we supported those amendments. The amendments also reduced the review period from five years to three. Originally, Hon Michael Mischin wanted the review to be after two years. Our point was that the act would barely have been in force and we would not have been able to know the impact on the community. Therefore, we accepted three years, even though it is silly and should be five years, because we wanted to be cooperative.

Amendment 12 was moved by the government. Let me make it clear. We moved this amendment because the opposition said it wanted a longer period so that the regulations would not come into effect until after they had been reviewed by the Standing Committee on Delegated Legislation. We did not want this amendment, because it is inconvenient for the government. It means that the bill cannot come into operation as soon as we want it to, because many of the provisions in the bill will need to be covered by regulations. We are very upset about this amendment. We do not like it. What is worse is that given that we moved the amendment only to satisfy the opposition, when Hon Alannah MacTiernan moved the amendment on my behalf, she was criticised for the terms of the amendment—which we had moved only because we were trying to satisfy the Liberal Party! The double-dealing and dishonesty on this bill by the Liberal Party is extraordinary, and this is another example of it. Amendment 13 is a departmental correction, and amendment 14 is the same as amendment 11.

Question put and passed; the Council’s amendments agreed to.

Mr W.J. JOHNSTON: I move —

That amendment 15 made by the Council be not agreed to.

Mr P.A. KATSAMBANIS: Amendment 15 is effectively consequential to amendment 1. It is a different provision, but it deals with the same word. We are dealing with one word, “fundamental”, the same word that we dealt with previously. Clause 31, page 30, line 17, which is proposed to be amended by amendment 15, states —

In making a determination or order under subsection (2), the State Administrative Tribunal must have regard to all of the following principles —

- (a) that family violence is a fundamental violation of human rights and is unacceptable in any form;

That is exactly the same provision as applied earlier in the bill.

Mr W.J. Johnston: It is a different provision.

Mr P.A. KATSAMBANIS: It is the same term. It is a different provision—this applies to SAT, so of course it is a different provision. But it is the same term

Mr W.J. Johnston: It is a different act.

Mr P.A. KATSAMBANIS: Yes, it is a different act. It applies to SAT.

Mr W.J. Johnston: No.

Mr P.A. KATSAMBANIS: But it is the same term. It is a fundamental violation of human rights, or a violation of fundamental human rights—or we can say a fundamental violation of fundamental human rights. I made my point earlier and I am not going to make it again. I am simply saying that this is analogous to, if you like, minister, or very similar, rather than the same. One flows from the other. If people are going to object to that word in the context of amendment 1, they are going to object to that word in the context of amendment 15. So we are on the same page?

Mr W.J. Johnston: Yes.

Mr P.A. KATSAMBANIS: There is no point making the same points again. Let us get on with it. We know what will happen. The government supports it, the government will vote for it and it will get through, and it will go back to the other place.

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Mr W.J. JOHNSTON: I just want to explain the provision, because there seems to be some confusion. This provision will amend the Residential Parks (Long-stay Tenants) Act 2006. The reason it is required is that it relates to a different act of Parliament. The other one amended the rights for people under the Residential Tenancies Act and this is about the Residential Parks (Long-stay Tenants) Act 2006. Disputes in respect to residential tenancies go to the Magistrates Court; disputes in respect to residential parks go to the State Administrative Tribunal. Yes, the member is right: the wording is the same and the arguments are the same, but I wanted to make it clear that the reason this provision is here is that it is unrelated to the previous matter. This amends a different piece of legislation. It is not the Residential Tenancies Act; it is the Residential Parks (Long-stay Tenants) Act 2006.

Question put and passed; the Council's amendment not agreed to.

Mr W.J. JOHNSTON— by leave: I move —

That amendments 16 to 20 made by the Council be agreed to.

Mr P.A. KATSAMBANIS: As I keep pointing out, I believe these amendments were unanimously agreed to in the other place. I again stress the word “believe”—that is what I have been told. I do not have a copy of the record in front of me. I think amendment 16 is an amendment that was originally proposed by the Liberal Party—again, I do not have the record in front of me and I do not have access to that record; nobody in this place has access to that record—or was consequential to one proposed by the Liberal Party. Again, all parties seem to be in agreement. There is no point holding it up. We should accept the amendments put to us by the Legislative Council and approve them.

Mr W.J. JOHNSTON: I just need to explain what we are doing. Amendment 16 is the review clause moved by Hon Michael Mischin. I will not go over it again. We thought it was defective, but we are not going to have a fight over words. Amendment 17 was moved by the minister on my behalf as part of a compromise we thought we had with the Liberal Party, but apparently we did not. Amendment 18 is a government amendment moved at the suggestion of the Greens. Amendment 19 is a committee amendment. Amendment 20 is effectively the same thing we did before under the Residential Tenancies Act as a conciliatory offer to the opposition, on which we thought we had agreement. As I say, members can see that it is in the same words as the other paragraph (aa) we talked about before. That is why amendments 21 and 22 are not needed.

Question put and passed; the Council's amendments agreed to.

Mr W.J. JOHNSTON — by leave: I move —

That amendments 21 to 23 made by the Council be not agreed to.

Mr P.A. KATSAMBANIS: These amendments are similar in nature in that they deal with work done by a qualified tradesperson. It is the requirement, through the initial proposal of Hon Rick Mazza from the Shooters, Fishers and Farmers Party, that this concept of providing a copy of the invoice from a tenant to a landlord would also apply in circumstances of caravan parks or residential parks. It talks about a long-stay tenant providing that invoice.

That is amendments 21 and 22.

Amendment 23 seems analogous to amendment 6, which the government supported earlier, because it inserts a statement that the long-stay tenant must give notice of the prescribed alterations to the park operator within 14 days after the alterations have been completed. I know the minister is going to say that amendment 20 places an obligation on a tenant in a residential park to give notice of an intention, so why add additional layers of red tape and make onerous provisions that they also provide notice that the alterations have been made. Maybe that is sensible and right, but we really have not had the opportunity to properly scrutinise the reasons behind these amendments. Again, the minister is choosing to indicate his non-support of the will of the majority of the Legislative Council. Once we finish, there will be another process and I will leave it up to them.

Mr W.J. JOHNSTON: I make the point again that we are not quite sure about amendment 23. Amendments 23 and 20 are the same; that is why we do not need amendment 23—amendment 20 has already dealt with the issue. Again, this should be victim focused; that should be the discussion. We are the elected government of Western Australia; we have the support of industry, victim organisations and the broad community. This is not needed. It is not victim focused. We do not support it.

Question put and passed; the Council's amendments not agreed to.

Mr W.J. JOHNSTON: I move —

That amendment 24 made by the Council be agreed to.

Extract from Hansard

[ASSEMBLY — Thursday, 29 November 2018]

p9022b-9043a

Mr Bill Johnston; Dr Mike Nahan; Speaker; Mr Peter Katsambanis; Dr David Honey; Dr Tony Buti; Ms Margaret Quirk; Mr Bill Marmion; Mrs Alyssa Hayden; Mr Tony Krsticevic; Mr Shane Love

Dr D.J. HONEY: I think that there are some contentions that need answers in this place. The contention that simply because other organisations support this bill, there should not be any amendment of it clearly does not make sense. Clearly, with other bills that have gone through a similar process, such as the Strata Titles Amendment Bill, there was substantial amendment in this place and in the other place. It is the proper role of the other house to scrutinise legislation.

The SPEAKER: Member, you have to talk on the amendment.

Dr D.J. HONEY: I am talking about amendment 24 and clause 36. The other house saw fit to debate the amendments and came up with some other proposals. That is the right and proper role of that house.

Mr W.J. Johnston: We're supporting this.

The SPEAKER: Member, the government is supporting it.

Dr D.J. HONEY: Yes, I know; thank you, Mr Speaker. This legislation is in this position because the government chose to leave this to the last minute. That is the point that has caused chaos.

The SPEAKER: No, you are not talking about the amendment, member.

Mr W.J. JOHNSTON: This is a Parliamentary Counsel's Office correction and we are just making sure that the bill is correct. I do not get this idea that the government is cooperating with the opposition on the management of the bill in the other house by referring it to a committee and delaying the debate. Remember, the debate was supposed to happen in October. The reason it is happening now is that the opposition asked us to send it to the Standing Committee on Legislation. The legislation committee reviewed the bill and came back with recommendations. The reason we are here at the last minute is that that is what the opposition asked for. I do not understand why the opposition does not know what the opposition is doing. I am very happy to support this amendment. As I have already stated, this is a suggestion from the PCO to correct an error in the bill.

Mr P.A. KATSAMBANIS: I note that the government supports this amendment. It corrects an oversight. It is a classic example of why a bicameral Parliament can add value to the process. This bill fundamentally gives victims of family violence new and better rights in certain circumstances. Those principles, we all support. We told the government that when the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 went through here in June and was sent to the other place, but obviously this had been missed. We do not want a circumstance in which someone who is not on the same page as the majority of the public who want to provide these rights to victims wants to question it because there is not a definition of family violence. It is been added—that is great. It is not a problem, and everyone supports it. But I again point out to the minister—hopefully for the last time tonight—that when he refers to “opposition”, the Liberal Party is the opposition in this place —

The SPEAKER: No, can we just get to the amendment, please. You have raised this point before.

Mr P.A. KATSAMBANIS: Yes, I will. This concept of sending the bill to a committee was raised by a number of opposition parties, not just the Liberal Party. That needs to go on the record. The minister is always trying to twist it around.

The other aspect of the issue that the minister raised was about timing. I stressed right at the start of my contribution that the bill went to the other place in June, and the government did not even address this bill until October. If it had addressed it in August or September, maybe we would not be here now —

The SPEAKER: We are talking about amendment 24 —

Mr P.A. KATSAMBANIS: Given that point, let us not be here any longer, Mr Speaker.

Question put and passed; the Council's amendment agreed to.

The Council acquainted accordingly.