

MINISTER FOR EDUCATION — SOCIAL MEDIA SITE

Motion

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [10.07 am] — without notice: I move —

That this house expresses its concern at the inappropriate use of social media by the Minister for Education and condemns the government for applying one disciplinary standard to the staff of the Department of Education and no disciplinary standard to the minister.

This is a motion in two parts. The first part is the house expressing its concern at the inappropriate use of social media by the Minister for Education. As a leader in education and as the minister responsible for standards and integrity in the teaching profession and in our schools, the minister does not have the luxury of being “silly”, which is the explanation that he gave to the public of Western Australia last Thursday for his use of social media. Last Thursday a story was made public about how a young man, who we are advised was around 16 years of age at the time, had posted a photo of himself and another person on his Facebook site. I am conscious of who might still be in the public gallery. In that photo, the young man exposed his genitals.

People not familiar with Facebook might not know but when someone makes a post—that is when they put something on their Facebook site—everybody who is a friend or who has access to that site can if they choose “like” the photo. This 16-year-old posted this photo on his Facebook site. A number of people indicated that they liked it and included in that list of people who indicated that they liked the photo, and therefore whose name appeared in the list of people who liked the photo, was Hon Peter Collier, the Minister for Education. The way the story unfolded last Thursday is that the minister was asked about it by a journalist from Channel Seven and he admitted that he had done that. He said that he had made a “silly mistake” and that he did not realise what was in the photo, with words to the effect that he had viewed the photo using his mobile phone and that in so doing he did not see the full extent of the photo. He said he had made a “silly mistake” and it was an important lesson to us all about the appropriate use of social media.

My point is this: as the Minister for Education—at the time that he liked this post he was the Minister for Training, not the Minister for Education—the minister had responsibility for standards and integrity among those teachers and other staff working in the training sector, in TAFE facilities, for example, who deal directly with many young people. As the person responsible in the Parliament and the government for the standards and integrity of those teachers, the minister does not have the luxury of being silly about the use of social media. As the minister responsible for standards and integrity in that profession, he does not have the luxury of being cavalier, reckless or not paying due attention to the detail of the things that he likes on social media. I use social media. I use Facebook and Twitter. I am a busy person. The minister is much busier than me and I know what it is like to flick through quickly and look at things and not see the total picture. I understand that; it can happen. But my argument is this: a minister of the Crown who is responsible for the standards and integrity in education, whether it is in the training sector or in our schools, does not have the luxury of not paying due attention to the detail of what he is liking. If people are busy and cannot pay due attention to what they are liking, do not use it. That is the best solution. Do not use it. If people cannot trust themselves that in a moment of just not thinking, which happens to us all and can happen a lot to busy people, that they will not make sure that what they are liking is appropriate, do not use social media. The person for whom the buck stops for standards and integrity does not have the luxury of making that kind of silly mistake.

Social media, and Facebook in particular, has got a lot of attention for how young people can inappropriately leave themselves open to either cyberbullying or other sorts of things that are not good for young people. On Saturday in *The Weekend West*, the principal of Gilmore College in Kwinana, Carolyn Cook said —

Facebook is the biggest enemy facing WA schools, says a principal whose ban on mobile phones and iPods contributed to a big reduction in student suspensions in a southern suburbs high school.

Ms Cook was dealing with cyberbullying. That is not what this event is about, but I am making the point that the inappropriate use of Facebook is front and centre in the policy and practice of schools, the training sector and educational professionals. With that in mind, the Department of Education has a set of guidelines about social media in schools. That document is titled “Social Media in Schools: Guidelines for school staff using social media and other technologies”. It is published by the Department of Education and is on its website. The document states, in part —

As a school staff member, you are subject to a level of public scrutiny over and above most other public sector employees ...

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As the Minister for Education or the Minister for Training, the minister is subject to a level of public scrutiny over and above most other users of social media. The guidelines document goes on to say —

Of particular concern is the ease with which professional boundaries and appropriate staff–student conduct relationships can be breached.

...

You should not engage in social interaction with students through social networking sites unless there is an educationally valid context. In the event of a complaint or allegation being received by the Department, the responsibility will be on you to demonstrate that the use was appropriate.

... you must not place yourself or your students at risk. The context, purpose and potential impact of using these applications —

Social media —

should always be considered. You must maintain a professional tone in all communications with students.

This was the Minister for Training and Workforce Development. He was not the teacher of this young man and there was not a teacher–student relationship but he was the minister with responsibility for the integrity and standards of dealing with young people. The person who posted the inappropriate photo was a young person; he was around 16 at the time. The guidelines go on to say —

You must always conform to the professional boundaries of staff–student relationships.

...

The intent of these procedures is to clarify the professional boundaries to protect you and your students from potential misinterpretation ...

It requires a greater vigilance by the minister in charge of education. It requires a higher standard and a much greater concentration by the Minister for Education. If he cannot do that, do not use it. The minister does not have the luxury of not looking at the detail of a photo posted by a 16-year-old boy, because what the minister liked was inappropriate and he is supposed to be where the buck stops for professional standards.

Yesterday, I asked a question of the minister about the issue. The phrase I used in the question was about his “inappropriate use of social media”. The minister was at pains to say two things. The first was that he understands that I do not believe his explanation that he did it accidentally. The second thing he was at pains to say was that it was not inappropriate. Yes, it was. If it was not, why did he apologise? If it was not, why was there a story at all? There was a story and the minister apologised because it was inappropriate. The minister says that he did not realise it was inappropriate and that he made a silly mistake and there is a lesson for us all. If that photo was not inappropriate, there would have been absolutely no need for the minister to apologise at all because there was nothing wrong with it.

The second part of the motion condemns the government for applying one disciplinary standard to the staff of the Department of Education or the Department of Training and Workforce Development but no disciplinary standards to the minister. If a member of school staff, a teacher or a staff member in a training facility had been confronted with the allegation that they had liked, in a Facebook sense, a photo in which a 16-year-old boy was exposing his genitals, or indeed a 16-year-old girl, it would not be left to the staff member to say, “Oops, I’m sorry. I made a silly mistake. I’ve learnt my lesson.” A disciplinary investigation would have been undertaken, possibly in the first instance—it might have ended there—by the line manager in the school or the TAFE or by the principal. It could have been, even at the first instance, referred to the Department of Education’s Standards and Integrity Directorate. The decision about whether it would be referred would be a discretionary decision made by the line manager or the principal. In exercising that discretion, the line manager or principal would have to take into account a range of things listed in the Department of Education’s publication titled “An Employee Guide to the Department’s Disciplinary Process: Respondents’ Rights and Responsibilities”. They are set out there. The context needs to be taken into account, such as whether the person demonstrated remorse and whether the person admitted it. There is a whole list of things that go to exercising discretion when making a decision about whether to refer it or what further action to take. That is as it should be because there are always different circumstances at play. What happened here? What happened is the journalist fronted the minister early in the morning, certainly before 10.00 am, with the photo and asked him, and he provided his explanation. In the other place, a question was asked of the Premier about when the Premier knew about this and whether the Premier accepted the minister’s explanation. What the Premier told the other place was that the first he heard about the story was about half an hour before the news bulletin on Channel Seven went to air at 6.00 pm and that he had not seen the photo. The line manager of an education staff member in a school or training facility is either a

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senior member of managerial staff in that facility or the principal. Who is the line manager or principal here? It is the Premier. Who is it that ministers need to hold themselves to account to in respect to the standards and behaviour that they exhibit? It is the Premier. What happened here? In this case the Premier tells us that he did not even look at the photo. He did not satisfy himself that the minister's explanation could possibly be true or not true because he did not look at the photo! I have been shown a copy of the photo. This is why I find it hard to accept the minister's explanation, although I note that he is entitled to his explanation. What is inappropriate about the photo, if I can use this expression, is "front and centre". There does not seem to be any question in my mind about not being able to see it. Nevertheless, for the sense of the debate, let us accept the minister's explanation that he was looking at it on his mobile phone and he did not see the entire photo. Is that not a matter that a school principal or a line manager would need to ascertain for themselves was plausible or not? But in this case the Premier has not even looked at the photo; not even the pixelated version that covers the things that are inappropriate. He has not even looked at it! When did the Premier find out about it? About 5.30 in the afternoon; but the minister had already given the public explanation before 10 o'clock in the morning. How is it that there has been any investigation by the line manager or the principal in this case? There has not. The line manager or the principal in a school setting may well have heard the explanation provided and said, "That's fine; I accept it. In all of the circumstances I accept that that was an accident. Please don't do it again, but I accept that it was an accident." Except, of course, that we are talking about a 16-year-old boy and we are talking about the exposure of genitals. I think those two things would have meant any principal or line manager worth their salt would have had to flick it up to the Standards and Integrity Directorate just to cover themselves, if nothing else, because that is serious and could be open to misinterpretation.

So, there is one standard for teachers, there is one standard for the staff in our TAFE facilities and our schools, and an entirely different standard, or in fact no standard, applied to the minister because the person to whom this minister is accountable did not even look at the photo! The Premier says he did not even know about this story until 5.30 in the afternoon, after the minister went out, before 10 o'clock in the morning, to provide the explanation. If we are to accept the tone of the explanation, he had moved on. The tone of the response I got in response to the questions I asked in here was that he had moved on: "Nothing to see here; moved on." How are we to accept that the Premier has satisfied himself that he has reason to believe the minister's explanation if he has not even looked at the photo? How is it that we are to accept the Premier has vigorously applied his own standards of what is acceptable behaviour if he does not even know about it until 5.30 pm, when the minister has gone public and admitted it before 10 o'clock in the morning? What else is that but a double standard? That says that the minister does not have to explain himself to the equivalent of his principal or line manager. That says that he went out and announced that he was innocent, and we are all expected to believe that, without anyone conducting an investigation.

Any investigation, as I said, may well have found that in all of the circumstances the minister was entirely to be believed. That may well have been what any school principal or line manager might find about similar circumstances applying to one of their staff. There may well have been, therefore, no disciplinary action taken. But I am not talking about disciplinary action; I am talking about a disciplinary investigation. There was nothing from the Premier. He did not even see the photo and he did not know about the story until half an hour before it went to air at six o'clock. That is a double standard. It is nothing more and nothing less than a double standard.

It is inconsistent with the "Social Media Guidelines" provided by the Public Sector Commission, which state —

It is important that staff know the impact their actions can have on their agency, even if they are acting in their personal capacity ...

- Staff should be aware of their obligations under the Western Australian Public Sector Code of Ethics ...

There is a ministerial code that applies to ministers. It does not cover social media, but it certainly should. I look forward to hearing that, as a result of this event, the ministerial code has been amended so that there are in fact guidelines applying to ministers about how they can and cannot use social media.

Another thing that the Public Sector Commission standards states is that staff using social media need to "reflect a corporate persona". I am pretty sure that it is an inappropriate corporate persona for the Minister for Training and Workforce Development or the Minister for Education to "like" a photo of a 16-year-old boy exposing his genitals. That is not the appropriate corporate persona. If that is not an appropriate corporate persona, any person working in the public service in Western Australia would be held to account by the Public Sector Commission's standards. But that does not apply if one is a minister in the Barnett government—one does not even get investigated! The Premier does not even look at the photo. The Premier did not even ask the minister to explain himself before he went out to provide his answer—and therefore the answer on behalf of the government—to the media in the morning. That is an extraordinary state of affairs.

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Let us absolutely accept that the minister is telling the absolute truth, that he was in a hurry, he knew the young man concerned, he assumed the photo would be perfectly fine for him to “like” and he just pressed the button. Let us assume that is absolutely true.

Hon Peter Collier: That is true.

Hon SUE ELLERY: Let us accept that is absolutely true. But if that was a teacher or any staff member in a school or a training institution, it would have been investigated. The principal or the line manager would have determined whether that was plausible, and moved on. That did not happen in this case. Why did it not happen? Because the minister responsible for standards and integrity in our schools, and training facilities at the time, is held to a different standard—a much lesser standard. That is not acceptable from a government that promised us higher standards. That is what Premier Barnett promised us—higher standards. He is not even checking whether those standards are being met. He has not even checked. So, how can he say he is applying a higher standard when he has not even checked for himself the nature, circumstances and context of what occurred here?

HON PETER COLLIER (North Metropolitan — Minister for Education) [10.27 am]: I will just make a few comments on this issue because I have already made comments in question time on two occasions and I do not intend to go over the same ground. I appreciate the comments of the Leader of the Opposition, particularly in regard to the fact that I think she countenanced the notion that what I said last Thursday was accurate. I appreciate that because it absolutely was.

Hon Sue Ellery: I did not say I believe you; I said that is what you say.

Hon PETER COLLIER: That is fine. I am not going to go over it. I will keep my comments very, very brief. I have been through this on a number of occasions. I will clarify once, for the very last time: the only time I saw the full extent of that photo was last Thursday. I will also clarify that the Premier’s office was made aware before I met with media, I have to say. I am aware that the Premier is a very busy man and he may not have been informed, but the Premier’s office certainly was aware.

Regarding the second issue about the department, of course we have to have standards in education. That is why we have a directorate that deals specifically with that. I, as Minister for Education and formerly as Minister for Training and Workforce Development, adhere to that doctrine. There is nothing within the Department of Education’s policies and guidelines that a teacher who did what I did would be disciplined in any way. I think that has been acknowledged.

According to the Department of Education’s “Social Media in Schools: Guidelines for school staff using social media and other technologies”, there is nothing to suggest that teachers are not allowed to use their own Facebook page or to “like” photos. The guidelines set out what teachers are not allowed to do, such as not entering chat rooms with students et cetera. The guidelines are basically just good commonsense. In addition to these guidelines, my office has sought advice from the Department of Education’s professional standards and conduct unit. In a similar situation, a teacher would not be removed from the school, banned from teaching or anything else. In my case I have publicly explained what happened to the media. I have also explained the situation on two separate occasions to this chamber, and again today.

HON LYNN MacLAREN (South Metropolitan) [10.30 am]: I want to speak in favour of the motion. Hon Sue Ellery has brought to our attention something of concern to the chamber. I understand the minister’s response to this and I think the point about the double standard is valid. There has been no investigation into this matter, and I think that is what Hon Sue Ellery has brought to our attention. Is it fair enough that the minister just stands up and gives an explanation or is it important that an investigation is done to the same professional standards the minister upholds in his department? The Greens (WA) certainly support the motion moved by Hon Sue Ellery.

Having said that, I completely get why social media is a struggle for us in our busy lives. I am in trouble for not liking something today, so I really get that when we are using social media, it is very difficult to balance the other very serious professional documents we go through and the standard of consideration for the issues we must weigh up in this house. We are in a very serious business. When we have to communicate with our electors we must be also across the skills and dexterity of social media. We are constantly swapping our brain between one part of our job, which is to legislate and use our full wisdom in making decisions in this house, and the other part of communicating them in a way that is accessible to the constituents. In order to do that we have this amazing new tool, social media, and as politicians we are encouraged to become adept at using it, because it makes what we do in here real to the public. It is important we are able to use that tool promptly. If we do not comment on social media quickly, the message is gone; nobody is looking at that page anymore. We have to be quick, succinct, relevant and friendly. These are things we are doing and I am sure the minister is doing them while he is considering other serious things, such as the legislation we should be dealing with, which the important time of this house should be spent on.

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I guess that to some degree, I can share some empathy with the minister for just quickly liking something as he is scanning down the newsfeed. However, this has been a really good lesson for us all to pay a bit more care because we have a certain responsibility to our constituents to reflect a good standard of behaviour and good leadership qualities to get the respect we deserve to make the serious decisions we make in the house. It is important that at some point an investigation is held into this event that will close the matter and get us back on track to the important things we need to do. I can understand why the minister has tried to deal with it by just making an explanation, which was timely. He admitted it was a mistake. Something former member Hon Norman Moore brought to our attention in his valedictory speech was that we need to acknowledge when we have made mistakes. It is a good thing that we are mature enough to do that. However, in this case, I think Hon Sue Ellery has made some very good points about the standards in the Department of Education for social media use and, as the minister is the Minister for Education, at least his behaviour should be held to those standards. In this case, I support the motion that we express our concern. After all, I think we are concerned about this kind of behaviour generally in relation to social media. We also want to ensure that children in our education system are protected from predatory behaviours like this. We are not saying here that it was predatory behaviour, but it is one of those situations, through the use of the social media tool, that is so close to the line that it is important we look at it carefully. I am sure, because we have heard his explanation, the minister will come out looking squeaky clean. We have had the privilege of hearing that due to the roles we play, but teachers and other people who may make mistakes have to go through that process, so we should honour the processes that are set up. We therefore support the motion.

HON SALLY TALBOT (South West) [10.35 pm]: I am speaking in support of the motion that this Council expresses its concern at the inappropriate use of social media by the Minister for Education and condemns the government for applying one disciplinary standard to staff of the Department of Education and no disciplinary standard to the minister.

I think what we have heard this morning in the minister's very brief response to this motion is his rewriting, on his feet in this chamber, the guidelines for the use of social media by teachers. Members opposite should go back over *Hansard* and read very carefully what their minister just said. He said he has trawled through those guidelines and he cannot find any reference to a problem arising from liking a picture on Facebook. I am sorry, but that is not what this minister did. This minister is in denial. The real question in front of this house; the real question the minister has to answer is: does he think he can bluff his way through this because he is becoming known as the minister for bluffing his way through things? There is a very serious problem here that Hon Lynn MacLaren just expressed very succinctly. The minister probably has not done anything that crossed the line, but he came so close to it that he has gone past the point of being able to just use his position of power and privilege as a minister of the Crown to say, "Trust me, there's no problem." This has to be tested and that is what this motion is about this morning. It must be tested. If the answer to my, albeit hypothetical, question of whether the minister can bluff his way through this is yes, that is a disgrace. The answer should be "No; because I'm going to submit myself to the same kinds of standards that would be applied to any one of the people who are in the employment of the departments I administer if they had come this close to that kind of uncrossable line."

We know that social media is a dangerous world. We wish that we could instil that sense of danger into many young people. I say to young people constantly, "Just be careful and remember that one day you'll want to play in the grown-up world and it is not as forgiving as the teenage or childish world you're playing in now." The principal of Gilmore College, Carolyn Cook, who was referred to earlier in this debate, has taken this particular bull by the horns. When I read that article in Saturday's *The Weekend West* I wondered how we could incorporate these insights into the kind of laws and regulations we deal with in this place. I think Ms Cook has done a very good job. When I talked yesterday about another matter concerning key performance indicators—KPIs, the jargon of the moment—with the KPIs that this principal is applying to her school, she is clearly ticking every box because she is reducing the amount of bullying and the number of suspensions at Gilmore College. I suggest that the minister needs to introduce Ms Cook to the Premier because I think she might have a few lessons to teach him about how he could improve the behaviour of the members of his cabinet. If I have time, I will refer to that in a bit more detail in a moment.

There are two ways in which social media can be a dangerous thing—one is the innocent use of the medium and the other is malicious use. I do not think that anybody is accusing the minister of anything other than an innocent misuse, but it is a misuse of the medium. He has entered into a dangerous world and he has fallen foul of that world. I fell foul of it in a benign way last week. I was sitting in the chamber and, believe it or not—I know that honourable members on the other side will be astonished to hear this—sometimes when members make hour-long speeches, the mind wanders a bit, because it gets cold in this place and it is late at night. So I brought up my Facebook page, because I thought I would check that all the information was correct. I got into the back of Facebook and I discovered that my status was single. I thought, "I am not single because I am married", so I put

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“married” as my status. All of a sudden I got about 500 congratulatory messages. I have married my husband twice, but he was a little surprised when he discovered last week that I had done it a third time, because he did not know about that! But he liked my posting, so that was okay. There are lots of traps in the background, and if people do not pay full attention, they can fall foul of them.

Clearly, the Premier is not Facebook literate, so I do not take anything that the Premier has said as in any way endorsing the minister’s explanation of why he should not be subject to further inquiry. The Premier said —

I think quite innocently ... he accessed the site; an image came up. It was meant to be a joke; meant to be funny ... and the minister just routinely pressed the “like” button to a whole lot of other groups of people.

I do not think, with the greatest respect, that the Premier knows what he is talking about, but I think the minister knows exactly how those mechanisms work.

We have seen recently that young people who are caught by this—let us say that it is innocent, because I believe that by far the majority of cases are done with innocent intentions—are now in danger of being placed on the sex offenders register for exactly this kind of thing; that is, for doing things thoughtlessly. Yet the minister got up in this place yesterday—he knows it was a mistake; he knows that he has done something wrong—and twice said in that answer that he certainly did not do anything inappropriate. That means that when the minister walks into every school staffroom and every TAFE facility over the next four years, if he lasts that long, he will have to look every single person in the eye—students, teachers and governors—and say that he did not do anything inappropriate. It beggars belief that members of this house had to sit here yesterday and listen to the minister say that twice. The minister said that he did not do anything inappropriate. Would the minister do it again? That is my question: would he do it again, because if he did not do anything inappropriate, presumably he will do it again? That is what he will see in the eyes of all his stakeholders over the next four years. Would he do it again because he does not think it was inappropriate?

The minister said that he did not know what he had done, but other people knew. As I have just described, I am a bit of an amateur at this, but even I know that every time someone’s name is mentioned on Facebook, they get notifications; they even get notifications on their phone that their name has been used. There were nearly 40 people on that link who saw what the minister had done. I ask the minister: who is watching his back? If I were the minister, I would be very, very nervous. He should not just be nervous about walking into all those staffrooms and training facilities, looking people in the eye and saying that he did not do anything inappropriate when he “Liked” the photo of a teenager behaving in the way that he was. He will also have to walk back into his office and say, “Hey, guys; what were you thinking?” There was even one posting on that thread that warned the young man about the damage he would cause himself, and the young man said that it was okay, as a senior cabinet minister was joining in the fun. It cannot be the case that nobody who is supposed to be watching the minister’s back did not warn the minister about this.

I want to finish by making a brief reference to the question in this matter. Is this really a problem? Is everybody on this side of the house so prudish and so hung up that we cannot go with the flow and “like” this and “Favourite” that? It is all okay; it is 2013; let us not get hung up about it. I put it to you, Mr President, that there are certain things about children’s sexual expressivity that are subject to law. Why are they subject to law? They are subject to law because children under the age of consent cannot actively play a part in those activities. They cannot do it because they are not psychologically, sociologically or, a lot of the time, sexually ready to cope with that world of adult sexuality. That is why we have those bans and prohibitions. But the minister has quite happily ducked under the accountability and responsibility that he would quite rightly expect of everybody working in any of the departments, facilities and institutes that he is in charge of.

HON SIMON O’BRIEN (South Metropolitan) [10.45 am]: I have listened closely to and with some concern about this matter over the last few days. I think it is the case that there are pitfalls in using social media. I know that because a number of members have told me so. I do not use social media myself. I do not get it; I do not want to get it. I hear about tweeting. I see that some of it even occurs from the chamber by people on the other side who have as many as 26 followers on Twitter, some of whom are their Labor Party colleagues and some of whom are members of the press; and, yes, the others are people at Liberal Party headquarters keeping an eye on them! That behoves them to follow the dictum—I will not use the expletive I normally use in deferral to the decorum of the house; I will substitute it for another more pathetic word—that the best advice I can give anyone in public life is to learn how to shut the heck up. When a person opens their mouth or expresses intemperate views, that is when they get themselves into trouble. Twitter or Facebook—we are talking about social media—causes people to express things that then go out into the ether, get out of control and get a very broad audience, as we know. David Warner from the Australian cricket team is another person who can tell people that a closed

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mouth gathers no foot! In the case of using social media, the old dictum that I know is to shut the heck up and people will stay out of trouble.

I do not trivialise this matter; I am just trying to get down to the nitty-gritty of what this is really about. The motion asks the Council to express its concern about something, and Hon Lynn MacLaren and Hon Sally Talbot said in support of that motion that they think it is okay for us to express our concern; indeed, we can and do express our concern about matters all the time. That is fine as far as it goes. But this motion invites us to express our concern at the inappropriate use of social media by the Minister for Education. I do not think it has been established. I do not think any independent or sensible commentator outside of the political sphere has established or even suggested that there was inappropriate use of social media by the Minister for Education. That is what needs to be established in support of what is, after all, a very serious motion. The mover, who is an experienced member, as Leader of the Opposition, has seen fit to bring her concern to the attention of the house for the reasons she has outlined in the manner that she has. It is not a motion of no confidence. It is not a referral to some tribunal. It is not a letter to the Premier asking him to investigate. No; it is a motion couched in these terms that comes to this house for debate. In support of that, I do not know that she has established inappropriate use of social media by the Minister for Education.

I asked for a quick look at this Facebook and what it looks like. I do not have it, and I do not want it; I am not interested. The whole thing leaves me cold; I just do not get it. I have better things to do with my time, but if people want to use Facebook, they can do that. Obviously they like doing it, and good luck to them. There are a plethora of messages—I will call them “messages”; there is probably some other word for it—that come through, that may or may not have a photo. The options, as they were shown to me, are that there is a touch screen at the bottom with a thumbs-up symbol and the word “like”, another symbol with “Comment” and another one with “Share”, showing an arrow going off. I presume—if I presume correctly—that these are the options that Facebook message recipients have when they get a message. They can then forward it on to someone else—millions of other people around the world, if they want to. That can cause problems if it is an unintended message that goes beyond an individual to others, and that is a risk if one is in public life and another good reason why one should shut the heck up! Or they can “Comment”, and if they press that bit they can then add some words like, “Yeah, looked like a great party! See you next weekend”, or whatever it is they put on this message. The most benign way of acknowledgement, as I see it, if someone has sent them a message or a picture from a party, is just to click “like”. There does not seem to be an option for “Don’t like”, so “like” seems to be just a brief acknowledgement when one cannot be bothered writing a comment and is not going to worry about forwarding the message to someone else.

That is how I understand it, but Hon Sue Ellery made it clear, in a couple of ways, that one has to be very careful about what one expresses a “like” for, because things can go very wrong from there. She is right about that, and I think it would be self-evident. Whenever we see someone—a cricketer personality or whoever—adding some further unfortunate comments to a chain of Facebook communications, it certainly can lead to all sorts of problems. In this case, something that would have gone completely unnoticed has been raised as a political issue. I say to my friend Hon Lynn MacLaren that this is not about an expression of general concern; this is, apparently, a deliberate political attack. This is not about whether we are concerned about people doing inappropriate things or anything of the sort; I am just trying to work out what it is that the present Minister for Education is supposed to have done. From the information that has been presented publicly, what appears to have happened is that he was sent a picture by a friend of a couple of people facing the camera and apparently having a good time as part of a whole stream of communications that came through, and one goes through and dismisses them—“like”, “like”, do nothing—whatever it is. It was only when Geof Parry from Channel Seven, I am told, blew up the photo and showed it to our colleague that he became aware that there was a detail of the photo in which someone in the photo was exposing a part of their anatomy. I honestly do not see how we can conclude from all of this that the minister has made inappropriate use of social media, together with all of the virtually unspoken implications that have been brought politically into this debate. If we do that, we are in effect saying, “This minister is not a fit person.” That is a far more serious thing than any evidence that has been produced so far, and I am sure my colleagues and most people in the house would accept that.

Finally, Hon Sally Talbot gave us an example of how one can have benign unexpected consequences. In fact, it has now been determined by some out there in the ether that she is married not once, but twice, to Hon Jon Ford! To paraphrase an expression, for that to happen once could be unfortunate, but for it to happen twice smacks of carelessness! Hon Sally Talbot knows that I respect the relationship she has with her husband, my good friend Hon Jon Ford, so I am not saying that maliciously, but it could be taken out of context. As she says, one has to be careful, because that could happen to any one of us next time.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [10.55 am]: I also rise to support the motion moved by Hon Sue Ellery. This is, indeed, a serious subject. Hon Simon O'Brien said two

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things that I will agree with. He has given everyone good, sound advice on how people in Parliament or public life should manage social media; his advice, I think, was to shut up, and that is probably a lesson we could all listen to. People do get caught out, and Hon Sally Talbot talked about the issues of social media, because they are constantly changing. People are using it as part of their daily lives and often they are never too sure about where the line is between their personal and professional lives. People can get caught out, and I am not too sure what has happened on this occasion. However, we are talking about standards—standards that are applied to one individual as applied to others. The reason this issue is still alive is that the minister has spoken on a couple of occasions to try to explain that he simply made a mistake. In fact, he used language that I had to ask my 15-year-old son the meaning of because I had not heard one of the terms before. Hon Simon O'Brien asked how we know when behaviour is inappropriate behaviour. I know that if the minister were still in the classroom as a teacher and had clicked the “like” button on this image on Facebook of a young man to whom he is not related and who, as we now know, was conducting himself in what I would regard to be an inappropriate way—but that is a whole other issue—then I would imagine that, if found out, he would have been moved aside from his position. As I understand it, there have been a number of examples over time of teachers having been stood aside in this type of situation and have had cause to explain themselves.

I do not know what was in the mind of the minister when he clicked that particular button, and we have not actually heard any explanation for that, but what is disappointing is that this government has not sought to make those inquiries. When the question was put to the Premier in the other place, he explained that, for whatever reason, he had not seen the image and was not fully aware of the issue. I do not know why the leader of the Liberal government and Liberal Party would not have carried out a full investigation and sat the minister down and asked, “What were you thinking? Why have you done this? Explain yourself, so I can explain this to the Western Australian community.” It is simple to say, “Look, I just made an easy mistake.” There will be issues with parents in the community thinking, “Who is this person in the education system in Western Australia, who is the most senior role model for teachers and educators in this state, who is out there as a senior role model for children in our schools? Why has he done this? Why has he clicked this button?” It may be that once this line of inquiry has been conducted it will be shown to have been a simple and innocent error; I do not know. All I am saying is that the public perception would be quite different, and I think the minister still has to explain himself as to why he did that. I think that is a serious issue. Part of it may be that the Premier is simply exhausted. He may simply be tired of having to explain to the public why, during the last term and leading into this fresh term, he has had to explain how a series of ministers have lost sight of the standards to which they must adhere, why they have showed poor judgement on a number of occasions, why they have shown a lack of ethics and discipline in some cases and how they have tended on some occasions to cross the line.

The Minister for Education has had an interesting history. He has a tendency to brush things off loosely and lightly. He thinks that if he says he made a mistake, that it is not true and that he did not do it, that a situation will go away. Let us face it—when the story about the minister and his use of social media came out last week, it was not as the result of a political beat-up by the opposition; rather, it came from a former staffer of the minister. I am pretty sure that that person was an active member of the Liberal Party, although he may have particular views about the minister. The story was not generated by members on this side. This is a serious story that sets up some challenges for the government in the way it addresses how social media is managed by its ministers and what standards are common standards. I do not see any reason that on this occasion the minister should be treated any different from a teacher who makes a simple mistake in a similar situation. The same type of investigation should be applied because it is a serious issue.

Coming back to the comment by Hon Simon O'Brien about members “twittering” and using Facebook while in this chamber, perhaps that issue should be canvassed in Parliament. Perhaps we must address how we manage the use of social media in Parliament. That might help to discipline the way members interact with social media. The reality is that social media is here to stay. It is something that people use all of the time as part of their daily lives. We must learn about the traps of social media and how to better deal with them. The matters we are talking about today are of significance. The minister cannot just brush things aside. He must explain why he does these things.

Social media is a great way of engaging with family and the broader community. Indeed, I have a Facebook page. I restrict access to my Facebook page to family and close friends. It is a great way to keep in touch with my nieces and nephews in the eastern states. Quite often I will click “like” when I see photos of my great-nieces and nephews. Looking at those photos is the only way I have to keep up with their growth and development. I will make comments to old friends and my children on Facebook. But I am very cautious about clicking on some images that come up. I am always very cautious about how I manage those things. The same applies to tweeting. Some people are prolific tweeters and want to share every thought from what they eat to how they wash their socks! I do not believe in doing that. I think comments should be made only when it is appropriate or relevant. Everyone manages it in different ways and there should not be restrictions on how those things happen.

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However, given Hon Peter Collier's position as the most senior person on his side of the chamber, he has to change the way he conducts himself. Perhaps just as Obama has had to hand over his credit cards whilst he is the President, Hon Peter Collier should cease using social media so that he does not fall into the same trap down the line. It is imperative that the government allows a full and proper investigation into why this incident has occurred. It needs to apply to the minister the standards that would be applied to teachers and others in the Department of Education if they were in a similar situation. I do not understand how the minister can say he has simply made a mistake in "Liking" the picture. He has set a precedent and changed the standards for others. Who is to say that a much more heinous situation may occur in the future and that a teacher might simply say that if it is good enough for the minister to say that he made a mistake, it would also be good enough for that teacher to say he made a mistake. What is missing here is a full and open investigation as to why the minister was able to get away with flipping this off when that principle would not apply to other people. This is a serious issue. It is a real shame the Premier has not applied the test to the minister and that the minister has not given us a full and frank telling of what led him to make that decision.

HON MICHAEL MISCHIN (North Metropolitan — Attorney General) [11.05 am]: I have listened to this debate with some interest. Originally I did not intend to speak on this motion because, in a sense, just about anything constructive or useful that could be said about this unfortunate incident has already been said on numerous occasions. I did have some sympathy for the concerns expressed that a minister of the Crown is subject to greater expectations than many other members of the community. If the motion and the arguments that have been put forward had been limited to comment on that, it would be very hard to argue against it. But what has become apparent over the course of the debate is the political opportunism that has entered this serious issue. Hon Simon O'Brien summarised the matter very well, and there is not much more I want to add to what he said. However, what has been repeated on numerous occasions in the course of the arguments put by the opposition is that there has been no explanation from the minister and that the minister needs to explain. Of course, he has explained on numerous occasions. He has explained to the media when the matter was first raised in the public arena. I am not familiar with the story any more than I suspect members of the public are. I have not looked into it. All that I know of the issue is what has been expressed in the media. I have seen the minister in front of television cameras explaining his perspective of what happened. He has explained his perspective on at least two occasions in this place in answer to questions posed by the opposition. It is simply false to say there has been no explanation by the minister.

Hon Ken Travers: No investigation—it's different.

Hon MICHAEL MISCHIN: "Explanation" is the word that has been used, Hon Ken Travers, on numerous occasions, including by Hon Kate Doust. On several occasions the minister has explained how it came about and what was going through his mind on that occasion. I accept that for either genuine reasons or simply out of political opportunism the opposition may choose not to accept those explanations. But it is simply false to come into this place, stand on one's hind legs and repeatedly say that the minister needs to give an explanation about this. He has given one on at least two occasions in this place and at least once that I saw in the media. The opposition can take it or leave it, but that is his explanation. Comment has been made that there has been no investigation into the matter. That is not what the motion is concerned with; rather, it is concerned about a disciplinary standard. We could argue until the cows come home as to whether or not a particular standard is applied to the conduct of members in this place. I recall under the Gallop government, I think, a minister for transport who retained her portfolios notwithstanding losing her licence for drink-driving. I did not see any of the members on the other side of this chamber at that time making any protest about double standards and not being held to account for their actions. Those were offences.

We get down to the case of what is allegedly an inappropriate use of social media. No evidence has been put before me that what was done was an offence, not even if it was done deliberately. Hon Peter Collier has indicated that it was through inadvertence. Even if he had done it deliberately, what was the offence that he had committed?

Hon Ken Travers: You are kidding me, aren't you? You can't see what was wrong with that?

Hon MICHAEL MISCHIN: Once again, we get back to the fuzzy thinking and the political opportunism. It is not a case of whether I see anything wrong with it.

Hon Ken Travers: Do you or don't you?

The PRESIDENT: Order! This debate has been conducted in a very civilised, serious manner, as it should be, given the subject of the motion. Let us keep it that way.

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Hon MICHAEL MISCHIN: If it had been done deliberately as a choice, knowing what this photograph was allegedly showing, yes, I would have thought it was inappropriate. I accept that. I am asking—Hon Ken Travers seems to know the answer to this—what offence against the criminal law has been committed?

Hon Sue Ellery: That's not the issue. That's not what the motion is about. It's about appropriateness or not.

Hon MICHAEL MISCHIN: I agree entirely. But it is the issue when Hon Sally Talbot gets up and says that children have been put on a sex offender register for doing this sort of thing. I ask her: what is the offence under the criminal law that has been committed?

Hon Sally Talbot: I didn't say that. You should listen.

Hon MICHAEL MISCHIN: I did listen, and that is what has prompted me to respond to that silly comment of Hon Sally Talbot. Again, that demonstrates that rather than considering an appropriate level of conduct, we are moving to something that has been governed by hyperbole and political opportunism on the part of the other side rather than rational debate.

Withdrawal of Remark

Hon SALLY TALBOT: I take strong exception to the reference to my remarks about children being placed on the sex offender register because of what is popularly known as sexting as being "silly". I think that is wholly unreasonable and I ask the honourable member to withdraw that comment.

The PRESIDENT: I can understand a member taking offence at any comment that has been made. I do not think I have heard anything mentioned that has been unparliamentary in that sense. The Attorney General has been invited to withdraw. I will not insist that he does because it is not unparliamentary in my judgement but if he wishes to, he may.

Debate Resumed

Hon MICHAEL MISCHIN: Once again, the debate is starting to get away from the motion. The point I make is simply this: to continue to argue this motion on the basis that one standard of conduct is applied to one group in the community and another to another is simply misconceived. In fact, in a sense, a higher disciplinary standard has been applied to Hon Peter Collier. He has been brought up before, as it were, the court of public opinion. He has to make his answer publicly. It will be for people to judge whether they accept his response. I have known him for a long time and I consider him a man of integrity. He has demonstrated integrity. There is nothing in the fact that he happened to have pressed a "like" or a "dislike" option on a Facebook page to suggest there is anything adverse to his integrity. At the very worst, it reflects on his judgement in that case, but I do not accept that what he did was deliberate, and certainly not calculated.

The opposition is entitled to its view. The point that I make is that the way the argument has been run has demonstrated a level of political opportunism that is wholly unjustified and has elevated this into something that is beyond a question of people publicly being accountable for their actions and an attempt to pervert the argument into something that will achieve some small political advantage. The points that I have been making about some of the comments that have been made by members of the opposition in this argument are illustrative of how that has been attempted in this case.

With respect, there is nothing more that I think can or should be said about this issue. Whereas I had some sympathy for the spirit rather than the wording of the motion, I can see that there is nothing to be gained from supporting it and I will be voting against the motion.

HON NICK GOIRAN (South Metropolitan) [11.15 am]: I regret that I need to engage in this debate. I am not as charitable as my learned friend the Attorney General, who indicated that at some point he had some sympathy for the spirit of the motion. I have none. It is a great irony that I should have to contribute to this particular debate because it has been only a month since I gave a presentation at a legal conference on free speech and the role Parliament can have in protecting this fundamental right of free speech. The presentation I gave, which is now in the form of a paper that will be published in the next edition of *The Western Australian Jurist*, undertakes a study of four different scenarios. I looked at the issue of free speech firstly in terms of how Parliament can help protect journalists and the shield laws. I looked at the issue, interestingly enough, of the sexualisation of children, which I have spoken of in this house before and how, ostensibly, it is a different side of the spectrum in the sense that Parliament wants to protect the right of journalists to be able to do what they do, but when we look at the issue of sexualisation of children, particularly in the various forms of media, at a surface level, that is free speech but is it the responsible use of free speech? That was the question that I was asking in this article.

I then looked at what are called hate speech laws and the dangerous path that has been taken by some jurisdictions in that respect and the very idea that someone can subjectively be offended by something, and

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somehow that then becoming a criminal offence. Lastly, I capped off the paper by looking at the issue of parliamentary privilege and how we as parliamentarians largely, not completely, have an unfettered right to freedom of speech. This is a great privilege and we should use that responsibly. In fact, if we have the power to restrict the freedom of speech of the very constituents who vote us into this place, we have an extra responsibility to ensure that our privilege is used appropriately. I think that a higher standard applies to us, particularly with respect to the speech that we use in this place.

Being a passionate advocate for freedom of speech, I want to take the opportunity to bring to the attention of the house the definition of the word “hypocrisy”. In an online dictionary reference, hypocrisy is said to mean the following —

1. a pretense of having a virtuous character, moral or religious beliefs or principles, etc., that one does not really possess.
2. a pretense of having some desirable or publicly approved attitude.
3. an act or instance of hypocrisy.

The context of those comments is that yesterday I was being attacked by members opposite because of a so-called lack of priority on my part in bringing a motion into this place. It was suggested by learned members opposite that we should have greater things to do at this particular point in the electoral cycle, yet members opposite have once again decided to raise this issue. I find it extraordinary that only 24 hours ago the priorities of this side of the chamber were called into question, yet today this is the number one motion the opposition puts before us. When we start proceedings each day we commence with a prayer, and in that prayer we talk about honour, wisdom and integrity. It is somewhat ironic that those three words, “honour, wisdom and integrity,” are being sought to be expunged from that prayer in a motion that we will no doubt be dealing with at some later stage this year. I look forward with great fascination to hear from members opposite why we would want to expunge the words “honour, wisdom and integrity”. No doubt, they all considered that before endorsing the motion that will come before us in due course. We say that prayer at the beginning of the Parliament—those of us who choose to participate in it. I wonder what this motion says about what the honourable members opposite think about my colleague Hon Peter Collier. I have had the opportunity to get to know this honourable gentleman over the last four years, and I know for a fact that he takes his role as a minister of the Crown most seriously. What is particularly remarkable about this whole set of circumstances is that the honourable members opposite would have us believe that a minister of the Crown of Western Australia would do this on purpose. Give me a break! No reasonable person in politics, no member of Parliament, would do this on purpose! Plainly, it is an accident. Plainly, it is an error.

I have sat in this place and, quite rightly, the Leader of the Opposition has asked some questions about this during question time. I say to the Leader of the Opposition that I have absolutely no difficulty with her having done that, because if I were ever in that seat I would do exactly the same thing. What offends me most of all about this motion is that the honourable gentleman sitting on the front bench of my side of the house has stood up, responded to that question and said it was a mistake. But that is unsatisfactory for the honourable members opposite. The minister says it is a mistake, and they say we need to investigate this further. The height of my offence at this motion was when I came back into the chamber and Hon Sally Talbot decided to make a big deal and asked the honourable member whether he would do it again. Plainly, Hon Sally Talbot has not been listening to any of the debate in this matter, because if the Leader of the House says that it was a mistake, obviously he is not intending to do it again. But the honourable member wanted to make a big deal of it and say, “I am a bit confused. You say it’s a mistake.” She asked whether it is appropriate or inappropriate. We have said that it is not appropriate. We have said it is a mistake. But, no, the other side wants to listen only to certain parts of the debate. All this comes down to spin. All I am asking from honourable members opposite is that they show a modicum of respect for the Leader of the House.

Yesterday, 22 May, as happens every four years, we took the oath as we came into this place. I can only assume that all members do the same as I do and take that with great seriousness and gravity. As I say, we all adhere to the general principles of honour, wisdom and integrity. If a member on this side of the chamber, or for that matter on the other side of the chamber, stands up and responds and says, “Look I made a mistake”, I think we should take that person at face value. If I had more time last week I would have spent a little more time talking about Hon Ed Dermer, but I ran out of time. Do members know what that excellent honourable gentleman did in my first four years? He coined a phrase that has stuck with me ever since. That was to take a charitable interpretation of things. That very honourable man used to hear things in this chamber and would quite rightly get to his feet, but would start by saying that he would try to take a “charitable interpretation” of what had been said. Those of us who know that man know he would have meant that from his heart. That is what I am asking members opposite to do: if the Leader of the House stands up and says it was a mistake, then it was a mistake

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and that is the end of the story. What we do not do is carry on like a bunch of pork chops and ask, "Would you do it again?" With the greatest of respect to members opposite and the person who asked that question, that is facile at best.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [11.25 am] — in reply: What an extraordinary contribution we have just had that we should accept any member of Parliament who has been accused of anything, who says, "It wasn't me. I didn't do it". What an absolutely extraordinary proposition! I cannot believe that came from Hon Nick Goiran, who is usually a lot more thoughtful about his contributions.

The minister tells us that this matter is done: "I have done one media interview. I've answered two questions in Parliament. That's enough! It's done. I don't need to say very much more!" It is not enough. It is not enough until and unless the government can demonstrate that it does not just have a document that talks about standards of conduct, a theory about what is appropriate behaviour and a policy about a higher standard of accountability, but that it actually puts into practice that this was an inappropriate act that should not still be a matter of debate. I seek leave to table a copy of the photograph. It has been modified and pixelated so that nothing offensive is visible and that no people's names are available for identification purposes.

Leave denied.

Hon SUE ELLERY: That is duly noted, Mr President.

This is not about an offence or freedom of information; it is about accountability, and there has been none.

Motion lapsed, pursuant to standing orders.

The PRESIDENT: I will explain for the benefit of new members particularly, because it might seem a bit confusing that we have had a debate but we have not had a vote. I refer members to standing order 110 on non-government business, which explains the process.