RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Assembly's Message

Message from the Assembly notifying that it had agreed to amendments 2 to 6, 9 to 14, 16 to 20 and 24 made by the Council, and had disagreed to amendments 1, 7, 8, 15 and 21 to 23, now considered.

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Amendments 1, 7, 8, 15 and 21 to 23 made by the Council, to which amendments the Assembly had disagreed, were as follows —

No 1

Clause 5, page 4, line 24 — To delete "fundamental".

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 15

Clause 31, page 30, line 17 — To delete "fundamental".

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.

The DEPUTY CHAIR: I will deal with each amendment the Legislative Assembly disagreed to in turn.

Hon ALANNAH MacTIERNAN: I move —

That the Council does not insist on amendment 1.

Hon MICHAEL MISCHIN: It is regrettable that the Assembly did not accept this amendment from the Council. Before I make the following points, I express disappointment in the manner in which what passed for a debate was conducted in the other place. There was a lot of rhetoric about how important the word "fundamental" was, but there was a concession that it made no difference to the bill and the assertion that somehow the inclusion of that word and phraseology was attributable to the Chief Magistrate—that the Chief Magistrate had asked for, recommended or insisted upon it as guidance. I understand a court seeking some words of guidance in a statute to assist it in its interpretation and application of the law, but I would be astonished if something as ungrammatical and as meaningless as that was actually formulated by the Chief Magistrate. Nevertheless, there was a lot of rhetoric about how the Chief Magistrate had wanted that in the bill. I hope that the minister is able to provide a copy of the correspondence—the evidence of that. If she cannot, I would like to know why.

On the last occasion that this bill was before the chamber, we also heard from Hon Alannah MacTiernan that the language was picked up from various sources, such as the Universal Declaration of Human Rights and the Australian Human Rights Commission. I would like to know where the words "fundamental violation of human rights" appear in those documents. She, herself, said that it does not in itself necessarily have a major impact; yet, it is important enough for the Assembly to return to us and say that it insists on the term "fundamental violation" being in the bill.

We heard that the wording has been taken directly from Victorian legislation. Yes, the preamble of the Victorian Family Violence Protection Act 2008 refers to the fundamental violation of human rights. However, I do not know what relevance that has to Western Australian legislation, particularly as the phrase does not appear in our Restraining Orders Act 1997 from which other definitions are drawn. I maintain that the terminology is ungrammatical, it is meaningless and it does not assist in the interpretation or application of what is proposed in the legislation; and, indeed, if a court has to struggle with what a fundamental violation is as opposed to any other sort of violation of human rights, it might in fact cause more problems than it solves.

I would appreciate it if the minister could, if she is able to—I doubt it somehow—produce the evidence to support her proposition and what caused so much anguish in the Assembly, where the minister responsible for the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 waxed lyrical about how, if we remove this word, we are somehow demonstrating that we hate victims of family violence, that we support family violence or that we are indifferent to family violence, and other absurd attacks on reputation that passed for debate in that place or for any rational consideration or understanding of the legislation. Having said that, from the Liberal opposition's point of view, it is not worth arguing the point; if the government insists on adding adjectives to the wrong nouns in its legislation, so be it. We will not be contesting that particular amendment. But is the minister able to provide us with the evidence to support the propositions that have been made about the appearance of that form of words in any of the human rights material that she has been talking about, and the Chief Magistrate's submission in that regard?

I should point out that it is not just the Liberal opposition and Hon Rick Mazza who took issue with the nature of that phraseology; it was also the Standing Committee on Legislation. Having read the *Hansard*, we know that down in the other place the minister was complaining that—this is a beauty—because members are moving amendments that go beyond the committee report, somehow that is a rejection of the committee report, no less, and utterly unprecedented, utterly wrong and showing bad faith. Apparently, according to that minister, it was not the government that referred the bill to the committee; it was the Liberals that did it. The "Liberals done it" in the whodunnit stakes down in the Assembly and in this government, and the "deal" was that if the committee reported on the bill, there would no debate on it afterwards and we would not reject the report by suggesting any other improvements to the bill. This is novel stuff. I do not know what he was on at the time, but that is just astonishing and it is totally unconnected with the history of this government's behaviour when it was in opposition. Nevertheless, those seem to be the propositions: we are here to rubberstamp bills and not suggest any improvements. We should get out of the way of the debate because the government has the majority; therefore, whatever it proffers is by definition good and in the public interest.

We will not argue with the government but we think it is the wrong word in the wrong place. The committee had its doubts about it. It wanted the minister to explain what it meant, because the committee could not work it out. Hon Rick Mazza did not understand it and it was not explained to him. The minister could not explain it in any rational way. We supported Hon Rick Mazza's amendment because it seemed like the sensible thing to do. Obviously, it is going to be so critical to the passage of the bill that over the Christmas–new year period, all sorts of safety considerations will arise even though the bill will not come into operation for six months, after some of the regulations are drafted. We will not argue against it, but I invite the minister—if she can—to enlighten us on the big secret held by her and the minister as to what it means, the foundation documentation on which it is based and, in particular, the correspondence from the Chief Magistrate that this form of words is essential to guide him.

Hon ALANNAH MacTIERNAN: I want to make it very clear that I never said that the Chief Magistrate said that that particular form of words should be incorporated.

Hon Nick Goiran: You didn't, but the minister did.

Hon ALANNAH MacTIERNAN: I said that the Chief Magistrate had asked and said that it was exceptionally important to have the guiding principles incorporated into the legislation, because that will be a very important component of the legislation and enable it to be properly interpreted. The words "fundamental breach" are varied —

Hon Nick Goiran: It's "violation"; get it right. Let's start on the right foot, please. It's going to be a long night otherwise.

Hon ALANNAH MacTIERNAN: Yes, I thank the member. "Fundamental violation" appears in the Australian Law Reform Commission report and is referred to, as I understand it, in the Victorian legislation, which is generally considered the gold standard and the benchmark of legislation.

Hon Michael Mischin: Minister, why is that the benchmark of this legislation?

The DEPUTY CHAIR (Hon Adele Farina): Order, members! I note that Hansard has occasionally been straining to hear the minister, so I ask that we keep the side conversations to a minimum. If the minister could please speak up a bit, that would be appreciated.

Hon ALANNAH MacTIERNAN: I am clarifying that we never said that the Chief Magistrate prescribed those words, but the Chief Magistrate wanted the principles to be articulated within the legislation. These words indeed appear in the Australian Law Reform Commission report and are also reflected in the Victorian legislation, which is generally considered the benchmark by the Australian Law Reform Commission. Our view is that there is a strong precedent for the incorporation of those words. We were very concerned that to delete "fundamental" would send a message that somehow or other we were taking a step back from the legislation or the concern about domestic violence; we had put up a bill to Parliament that referred to a "fundamental violation" and then when it came to the Legislative Council, we decided that we did not want it to appear to be as significant. That is the logic of why we did not support that deletion. The Legislative Assembly felt that it could not accept stepping backwards from the semiotics of the word in the guiding principles. I understand that the members had agreed. I was under the impression that we had agreed that we would proceed with that, but that is my commentary and I simply have nothing further to add on that.

Hon RICK MAZZA: I moved this amendment in the first instance. After having been on the Standing Committee on Legislation and analysing this bill in some detail, the reason that I moved the amendment is that it did not quite make sense to me that we could have a fundamental violation of a human right, which is to try to categorise a violation. A violation of a human right is simply a violation of a human right. I do not know whether we can have a fundamental one. In saying that, I do not think that it will change the bill and I will support the minister's motion not to insist on the amendment.

Hon NICK GOIRAN: Twice tonight, the minister has mentioned that the words "fundamental violation" appear in the Australian Law Reform Commission's final report and in the Victorian legislation. Does the minister have the Standing Committee on Legislation's thirty-eighth report at her disposal this evening?

Hon Alannah MacTiernan: I do.

Hon NICK GOIRAN: If I could ask the minister to turn to page 12, paragraph 7.22, I will quote what it says —

> Noting the absence of the term 'fundamental' in both the Restraining Orders Act 1997 and the Australian Law Reform Commission's final report, the Committee makes the following recommendation.

The reason I draw the minister's attention to that is that I would like to know whether the government disagrees with that paragraph. I draw to the minister's attention that the chair of the committee is Hon Dr Sally Talbot. Does the government disagree with that paragraph? While the minister is contemplating whether she agrees with Hon Dr Sally Talbot, can I ask the government in how many other statutes in Western Australia—forget about Victoria, because the minister has already told us it appears in the Victorian legislation—the phrase "fundamental violation" appears?

Hon ALANNAH MacTIERNAN: I refer the member to the Australian Law Reform Commission report. I am being shown an electronic copy of that report and the principles referred to in chapter 7 state that family violence is a fundamental violation of human rights. That appears in the report. As far as we know, the Victorian legislation is the only legislation. It is new legislation and this is the principle we have adopted.

Hon NICK GOIRAN: Just going to my question, in how many statutes in Western Australia does the phrase "fundamental violation" appear?

Hon ALANNAH MacTIERNAN: It will appear in this statute if we ever get around to approving it!

Several members interjected.

The DEPUTY CHAIR: Order, members!

Hon NICK GOIRAN: Just to be clear then, minister —

Hon Alannah MacTiernan: I have been clear. I am saying that if this legislation passes, the term will exist in this bill as it does in the Victorian legislation and as it is referenced in the Australian Law Reform Commission report. To my knowledge, it does not appear in any other legislation. That is clear and I have no further comment to make on it.

Hon NICK GOIRAN: I thank the minister for being clear for the first time this evening.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: Tomorrow, Thursday, is the last day and Thursday is always the minister's strongest day. I know she is looking forward to non-government business tomorrow.

Hon Alannah MacTiernan: This is threatening behaviour. We are dealing with a bill here.

Hon NICK GOIRAN: Please, minister.

Several members interjected.

The DEPUTY CHAIR: Order, members!

Hon NICK GOIRAN: We are dealing with a fundamental problem here, minister.

The DEPUTY CHAIR (Hon Adele Farina): Order, members; that includes Hon Nick Goiran. We are dealing with the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018. Can we try to stay focused on that bill.

Hon NICK GOIRAN: I shall provide my remarks through you, Deputy Chair, rather than being distracted by the silliness of the minister. I am happy for members to go through the *Hansard* tomorrow and check, but we have heard now, for the first time this evening, clarity from the minister that the words do not appear in any other statute in Western Australia. For the first time in Western Australian history, we will have the insertion of the words "fundamental violation". On this occasion I agree with the minister, because I have also conducted a search to verify whether the phrase "fundamental violation" appears in any other statute in Western Australia, and it does not. This would be the very first time. It may interest members to know that the word "violation" appears on several occasions, but never does it appear in conjunction with the word "fundamental". The minister and her colleagues have decided that for the first time in Western Australian history, we are going to insert the phrase "fundamental violation". As has already been indicated by my learned friend Hon Michael Mischin, the opposition will not be opposing this particular motion by the government. It insists that for the first time in Western Australian history we are going to have this phrase in our statutes. We were not going to fight on this particular issue because it is a nonsense that has been created by the government, but we want it to be clearly on the record that it does not appear in any other statute in Western Australia. This is why there was the concern at first instance. It is ridiculous to start introducing the concept of a "fundamental violation". As the learned minister would know, it will create the possibility of an interpretation issue within the courts. It will create a farcical situation. Because the government has decided to insert this phrase, the courts will be required from time to time to determine whether there is a difference between a violation and a fundamental violation. The courts will say: there must be a difference because the Legislative Council decided that it was very important for the word "fundamental" to be inserted. In fact the Legislative Assembly was so assured that it needed to be included that it even sent it back to the Legislative Council. The Council capitulated and said, "We'll just agree to it anyway." The judge or the magistrate who then has the legislation before them has no option but to say at that point, "Clearly, the lawmakers of our state, the elected representatives, thought it would be very important in this particular legislation that there was this extra word 'fundamental'. It does not appear in any other statute, so the Legislative Council and the lawmakers must have thought it was important."

That is what is going on here, minister. I understand the minister gets that. I say in all sincerity that I know the minister gets that, but can I say that her colleagues from the other place clearly do not. A quick perusal of the *Hansard* from the other place as to what happened last week demonstrates that. In fairness to the minister today, it has been the first time that a government member has been able to articulate some kind of response. I give the minister credit for what has happened here this evening. That was completely absent from the debate, until now. It does not change the fact that we are still inserting an unnecessary word. It will create the possibility of an interpretation problem down the track and does not change the fact that I think it is bad lawmaking. I at least give this minister credit for what the other members were incapable of doing, which was to provide a cogent explanation for why the government would go down this path. If the explanation by this government is, "We're going to do it because the Victorians are doing it", so be it. That is not a sufficiently persuasive argument for me. I could not care less what the Victorians are doing with respect to their legislation. I think that the Victorians have made a drafting error in their legislation. Because they make a drafting error, and the Victorian MLAs and MLCs did not pick it up because they were too busy at the football or whatever they were doing on that particular occasion, we are going to slavishly follow their precedent! That is pathetic lawmaking. I am not going to be associated with that.

If this government insists that this legislation cannot possibly pass without the word "fundamental" being included, as Hon Michael Mischin has indicated, the opposition will not be an obstacle in that respect. I want to make the point that it is very disappointing that the government has not understood this "fundamental" issue to do with the

interpretation of legislation. I am very disappointed about that. Nevertheless, so be it. So that the minister and the government are clear that that is the situation they are creating, and so long as the 35 voting members of this chamber understand that that is the situation they are creating, so be it. Far be it from us, the opposition, to create an obstacle for the government on this. The government has been insistent that this is crucial legislation that must pass—it must pass last week! In fact there has been outrage that it has not passed sooner. I note in passing that we have finally got to this bill today after the government decided that it was not its top priority. That is perhaps a matter for another occasion.

I indicate in closing that this is poor lawmaking. I give credit to the minister, at least for the first time, for providing some explanation about the Victorian legislation. To me, it is not persuasive and it should not be included. We should be insisting that the word "fundamental" be removed as a matter of proper lawmaking, but if the government insists, so be it. As Hon Rick Mazza indicated, in the end it is not going to affect the operative provisions of this legislation. The truth is that whether or not the word "fundamental" is there, a victim of domestic violence who is fleeing domestic violence and wants to terminate their lease agreement will be able to do so on seven days' notice upon providing some evidence, potentially in the form of a family violence report. That will happen irrespective of whether "fundamental" appears in the legislation. That does not change the rhetoric of the members of the other place to the contrary—that is, that somehow the opposition and anyone who supports the opposition is evil in this respect and very pro-violence against women. Not only is that outrageous, but also it is, frankly, embarrassing that any lawmaker would stand up in any Parliament around the globe and say that. The debate in the other place was appalling. The concept is not difficult. It is an unfortunate reality that sometimes members can be elected to this Parliament with no appreciation of the implications of inserting certain words. What happened last Thursday made that all the more clear. Nevertheless, if the government absolutely insists that it is fundamental to this bill that "fundamental" be included, the opposition will not oppose that.

Hon MARTIN ALDRIDGE: I rise briefly on behalf of the National Party to indicate that we will not oppose the motion moved by the minister on amendment 1. In doing so, I want to associate our position with the comments just made by Hon Nick Goiran. The debate in the Assembly last Thursday concerns me deeply. I believe that the Minister for Commerce and Industrial Relations misled the other place about the position of the Legislative Council. He said that the amendment had been sent to the Legislative Assembly because we opposed the view that it is a fundamental human right to be protected from domestic violence. Of course, I did not hear a single member of this chamber claim that during the course of the debate last week.

At least the minister is consistent in his approach to this issue. True to form, he is once again more concerned with playing politics than making sure that the policy of this bill is right and that victims of family and domestic violence have the most adequate and appropriate protections available. We will not play that game, so we have agreed to compromise on this matter. We recognise that if the future circumstances that have been outlined by Hon Nick Goiran arise, they will hang fairly and squarely on the shoulders of Hon Bill Johnston.

Hon AARON STONEHOUSE: I may be covering some ground that has already been trod, but there seems to be a great misunderstanding in the Legislative Assembly that the amendment to remove "fundamental" is somehow a reflection of how seriously members take domestic violence. That certainly is not the case. As was pointed out by Hon Nick Goiran, this is a matter of interpretation. I also point out that the question is not whether it is a violation of a fundamental human right; it is whether it is a fundamental violation of a human right. The government has not given us an adequate reason for why the term "fundamental violation" should remain. As has been pointed out, it does not appear in any other statutes of the state. Having read the *Hansard* of the debate in the Legislative Assembly of last Thursday, it appears that Minister Johnston has gone some way to confuse the debate in the lower house by misrepresenting the views of the Legislative Council. He stated —

> In the other house, the shadow minister said that it is not a fundamental human right to be protected from domestic violence.

No-one ever said that! That was not said once! That is a complete misrepresentation. It is not about whether it is a fundamental human right; it is about whether the term "fundamental violation" is appropriate in this case. Unfortunately, the minister has said pretty clearly that, again reading from *Hansard*, if the Liberal Party votes again to say domestic violence is not a fundamental violation of human rights, the bill will cease to exist. It is very frustrating because it is not just the Liberal Party that operates in the Legislative Council, of course; there is an entire crossbench. It is quite often how members of the crossbench—the Greens; One Nation; the Liberal Democrats; the Shooters, Fishers and Farmers Party; and the Nationals—vote that determines what legislation or amendments pass. It is not actually always up to the Liberal Party.

In any case, on the substantive motion before us, it is bad form to insert words such as "fundamental violation" for what seems to be little more than virtue signalling. Ultimately, it would be a shame to hold up this entire Residential Tenancies Legislation Amendment (Family Violence) Bill on that single term. As has been pointed

out by previous speakers, it will not affect the operative provisions of this bill, albeit, it may cause issues of interpretation down the track. Therefore, I will not oppose the motion in front of us now to reject that amendment.

Question put and passed; the Council's amendment not insisted on.

Hon RICK MAZZA: I move —

That the Council insists on amendment 7.

There has been a lot of discussion behind the Chair on the provision of invoices should work be undertaken by a qualified tradesman, which is a condition of the bill. When security attachments are put onto a property, it is to be done by a qualified tradesman, a requirement of the bill. The amendment I put forward was that a copy of those invoices be provided to the landlord within 14 days. I think it is a very sensible amendment. Hon Alison Xamon has spent a lot of time over the last few days consulting with stakeholders from the social services sector and they have become quite comfortable with that outcome. Some of the objections to it were that invoices may not be available for charity work when a charity may install appliances or it may be done on a voluntary basis. The argument against that is that invoices can have a nil balance. When someone does it on a charitable basis or on behalf of a charity, it will still have to be undertaken by someone who is qualified, particularly for electrical or asbestos work. In those cases, an invoice can still be provided. Even though there is no charge, an invoice is valid and to be provided to the landlord. In those circumstances, this is an amendment that we should send back to the Assembly and insist that it be provided. In a conversation I had with a stakeholder from one of the organisations that looks after people who have issues with domestic violence, they said to me that it was a good idea that the landlord be advised that this work had been undertaken so that the landlord was aware that fittings had been put on the property. Also, at some later stage, if the invoices are there, it will take care of things like insurance, warranties or whatever may occur sometime in the future. I commend that motion to the chamber.

Hon ALANNAH MacTIERNAN: I rise to indicate that in the interests of getting this moving, we are not opposing this motion. We think that it will place an unnecessary burden on the victims of domestic violence at the time that is most challenging for them. We note the issue raised by the member that one of the stakeholder groups indicated that it was a good idea for the landlord to be notified. We agree with that and in fact that is why we proposed amendment 6, which we inserted in this place in order to address that important issue that the landlord be notified that alterations were going to be made. That issue has been dealt with by that other amendment. As I said, the minister has agreed to not oppose this amendment in order to get this process underway. However, we indicate that at a later stage we may need to come back and look at deleting the other provision that we put in to address that same issue so that we do not have these two different procedures with which a tenant needs to comply at the time of the installation.

Another concern has been raised about invoices. We have made it very clear that we expect that the court would interpret that invoice very broadly, given the conversations that have been had and the statement of intention from Hon Rick Mazza about what he was intending to achieve with this amendment, and likewise the reason why we have accepted it. Hopefully, this will be an aid to any court wanting to interpret what an invoice is. I know that Hon Alison Xamon also shares that concern. If it is an invoice of "nil", we expect that what will be sought here is some account of who has done the work rather than any account of the amount of money involved in the transaction. We want to put on notice that at some future stage we believe that it probably would be desirable to remove the other amendment. We do not propose to do that now because obviously that is not something we can do within our standing orders. Nevertheless, we want to make progress so we will not oppose Hon Rick Mazza's motion.

Hon MICHAEL MISCHIN: I am pleased that the government is moving forward on this despite the turmoil in the Legislative Assembly where it seemed to have been a major issue and where it was said that we are imposing terrible burdens on those who are the victims of domestic and family violence, that we are being oppressive and the like, and that it is totally unnecessary. I heard the minister's comments about amendment 6. It needs to be understood that we are dealing with a situation that is not a normal tenancy in which someone wants to make an alteration to the lessor's premises by putting up a rail or something in the kitchen, or some hooks in the bedroom or whatever it happens to be: "I want to make an alteration. Can I do that?" The lessor then gives permission and says, "Yes, you go ahead and do it. You pay for it and you take it down at the end of the tenancy if I want you to." Here is a case in which no permission is required and no permission is being sought. Therefore, it is not unreasonable for a lessee to say to the lessor, "I want to do certain work on your premises of a security nature"— because the regulations limit what the lessee may do. The lessee may say, "I want to put up a security camera, change the locks on the door, put up a gate, trim the shrubbery and put up security screens." The purpose of amendment 6 is to ensure that the lessee gives the lessor the courtesy of saying, "I want to make various alterations to your premises." There is no harm done. It is hardly oppressive.

Amendment 7 builds on the requirement, which the government has prescribed, that the work be done by a qualified tradesperson. It is simply about saying, "Here is the work that has been done." The lessee may have

notified the lessee that they want to do A, B, C and D, but the tradesperson has done only B and C, and they give the lessee an invoice for that work. We can invoice people on a cost basis. We can invoice people for zero. The purpose of an invoice is to provide evidence that the work has been done. There is nothing hard about that. An invoice is important for a lessor because it provides evidence of the work that has been done to the lessor's premises. If the tenant for some reason cannot make good, or if the work done by the qualified tradesperson is negligent, has damaged parts of the property or is a hazard of some sort, the lessor will know who did that work and can go after that person and seek redress. It is not unreasonable. It is not a great burden. Therefore, I am glad the government has finally seen sense with this amendment.

The corollary is some further amendments with regard to restoration work. The government also took umbrage at those amendments. The government proposed to insert provisions, one of which still survives, to the effect of notifying the lessor that the restoration work had taken place. We do not insist on that amendment. However, none of these things are onerous. It is about providing a list of the work that was done by the qualified tradesperson so that the lessor will know where to go to seek redress if the tradesperson did not do the work, or the work was not done properly and was a rubbish job, because the tenant will be able to provide evidence of that.

There is nothing onerous about this amendment. It will not add bureaucratic red tape. It is just part of the normal activity of human beings in our society in getting evidence of work done on a property that they are either paying for or renting. I am glad the government has finally seen reason. We will be supporting the amendments that have been moved and that were very rashly and hysterically rejected by the minister in the other place. I am pleased that we have come to an accommodation that will progress the bill and put in place the protections that will be provided by this bill as soon as possible.

Hon ALISON XAMON: I rise to ask some questions and get further clarification on this amendment. I note that this amendment is the result of considerable discussion behind the chair and the goodwill that has been shown across the chamber—I include the government in that—to ensure that this legislation can move forward. I believe every member of this place wants to improve the supports for people who find themselves in this situation, in particular women. I am aware that during the discussion behind the chair, concerns were raised about how the word " invoice" will be interpreted. I share those concerns. I am seeking further clarification about how that word could potentially be interpreted. In some situations, an invoice would be fairly straightforward. As was mentioned by Hon Rick Mazza, the work may be required to be undertaken by people with special expertise, such as electricians. I note that the provisions in this bill do not override the Electrical Safety Act, nor, indeed, the provisions relating to working with hazardous materials such as asbestos. I recognise that for that work to be undertaken, there is a legal requirement that particular certification is to be handed over by the qualified tradesperson. This provision simply requires that the paperwork is to be handed to the owner within a particular time frame, so that they have a record of the work, particularly electrical work, that has been undertaken at those premises.

What is less clear is when work is undertaken that does not necessarily require someone with specified expertise. We note that the substantive legislation as put forward by the government, and I understand this particular provision, arose as part of the government's original negotiation with real estate agents, and requires that any additional installations or upgrades to a house are done by qualified tradespeople—that is, people with professional qualifications. The question I have is around how we are going to define an invoice for work done by people on a pro bono basis. For example, some organisations specifically assist women and children who are experiencing situations of domestic and family violence and need support. Those organisations may have pro bono professional people who can assist with making upgrades to homes and, as a result, no money will change hands. Can I please have it confirmed that if a piece of paper is produced that confirms that particular work has been done by somebody who has the necessary qualifications—that may be a regular tradesperson—that will be sufficient to qualify as an invoice for the purposes of meeting the requirements of this amendment?

Hon ALANNAH MacTIERNAN: Yes. That is certainly the interpretation that we would want to follow. I understand that when Hon Rick Mazza moved and argued for the amendment, he was very conscious that the invoice should also cover pro bono work, and that the invoice really constituted a statement of the work having been done by that person.

Hon ALISON XAMON: I thank the minister for the additional clarification. In the event that a tradesperson, paid or unpaid, fails to provide an invoice, how is it anticipated that the renter will be able to comply with the provisions in this amendment?

Hon ALANNAH MacTIERNAN: As I read the clause, it says that where there is an invoice, of whatever nature, that invoice is to be provided.

Hon ALISON XAMON: Can I confirm that if an invoice is never produced by the person who undertook that work, it will be deemed that the renter has not breached their obligation?

Hon ALANNAH MacTIERNAN: I think that would be the natural reading of the amendment.

Hon ALISON XAMON: If a renter has received a receipt but, for whatever reason, is unable to or does not hand that over to the lessor, will any penalties flow from that; and, if so, what will those penalties be?

Hon ALANNAH MacTIERNAN: The point is that they would be in breach of the act generally. They would be in breach of their lease. Under the structure of this legislation, a person is required to meet the terms of their tenancy agreement. This creates a set of exceptions that allows a person to do something as a statutory right, but requires that, as part of that statutory right, where they have an invoice, they are to provide that invoice. If they fail to do that, one would argue that their statutory protection might fail.

Hon RICK MAZZA: I just want to clarify something here on the discussion that just took place. My natural reading of this clause is that an invoice is to be provided for the work undertaken by a qualified tradesman, as is required by the bill. I would expect that in most cases an invoice would lay out the work that has been undertaken, particularly when that work was required to be done by a licensed tradesperson, such as an electrician, someone who is handling asbestos, or even plumbing, if that came into it. In those circumstances, an invoice would be provided. If the work is done pro bono—on a voluntary basis—an invoice can be provided, as far as that is concerned. I do not know that not providing the invoice is okay. I think that if the landlord insisted that something was given to them to evidence the fact that a qualified tradesperson had undertaken the work, in case the lessor, as I described when I spoke the first time, requires that for an insurance claim or some other thing, then it is important that it be provided.

Hon MARTIN ALDRIDGE: I rise to indicate the National Party's support for the motion moved by Hon Rick Mazza. In doing so, I want to indicate that I think this scenario is certainly not the most perfect one. If I reflect on this part of the bill in relation to prescribed alterations, the entire drafting of this part of the bill is most inadequate. I am somewhat heartened that some improvement is being made and that, as I understand it, next year there will be a review of the Residential Tenancies Act as a whole, which might well reconsider some of these matters more fully. A fair bit of conversation has just occurred about how an invoice would be defined, which I am less concerned about. I think there has been some confusion in the community about the term "qualified tradesperson", which, of course, is not the construction of the non-government parties of this chamber; it is the construction of the government. Those are the government's words; that is its benchmark. If we want to talk about imposition on the people to whom this bill will apply, that would be a greater imposition than the word "invoice". Nowhere in this bill, nor indeed in the Residential Tenancies Act, is a qualified tradesperson defined. It is interesting looking at the committee's report, in which the Department of Mines, Industry Regulation and Safety has listed the types of security upgrades it intends to prescribe in regulations. One of them is the pruning of shrubs and trees abutting the agreed premises. According to this bill, which will hopefully pass shortly, that work needs to be done by a qualified tradesperson, which is undefined in this bill and the act. I will be interested to hear the advice that will be provided to tenants, when they want to remove some shrubs abutting their property to improve their security, about which qualified trade they will be obtaining the services from in order to comply with the government's bill.

Obviously, the amendment moved by Hon Rick Mazza does not go to those issues; it goes to the issue of invoicing. It is something that we in the National Party were committed to when this bill was previously passed through the house. We respect, but do not accept the view of the government about this being an onerous requirement. We think it is a fair and balanced provision. I hope that the review of the Residential Tenancies Act looks more closely at this part of the bill when it does its work next year. I draw members' attention to section 43 of the Residential Tenancies Act, which refers to urgent repairs. That section contains a definition of "suitable repairer", which states —

> ***suitable repairer***, in relation to urgent repairs, means a person who is suitably qualified, trained or, if necessary under any written law, licensed or otherwise authorised, to undertake the work necessary to carry out the repairs;

I think that is a far more reasonable definition, albeit not perfect. A person might need to be a suitably qualified person or suitably qualified installer. I think that which exists in the current act is a far better definition than this new term being introduced by the government of a "qualified tradesperson". I think it is going to create more of a challenge for government agencies, community legal centres, tenants and landlords than the word "invoice". I support the motion.

Hon ALANNAH MacTIERNAN: I think that there is some substance in the member's point about a suitably qualified person. Although it is not germane to any of the amendments here tonight, we certainly take that on board.

Hon MICHAEL MISCHIN: I want to clarify something. The failure on the part of the tenant to provide an invoice, does that result in the tenant committing an offence under the act or simply breaching a condition of the tenancy that is implied by way of the act?

Hon ALANNAH MacTIERNAN: If the tenant does not comply with the provision as it is articulated, as we said, that could constitute a breach of their tenancy and consequences could flow from that.

Hon MICHAEL MISCHIN: I understand that, but it does not constitute an offence—there is no offence-creating provision regarding that sort of a breach.

Hon ALANNAH MacTIERNAN: I do not believe that when the member moved the amendment, he included a breach provision within it, so it is not within the ambit of the motion that is being considered.

Hon MICHAEL MISCHIN: I understand that, but certain failures to comply under the Residential Tenancies Act may constitute an offence and can be punishable by a penalty. If the lessor fails to do something, a penalty is prescribed. If a lessor or tenant fail to do certain things, there is a penalty. Is there any penalty provision—any offence provision—that can operate under these particular provisions in order to make a breach an offence? I do not think that there is.

Hon ALANNAH MacTIERNAN: My advice is that there clearly is not.

Hon MICHAEL MISCHIN: It is important, because I refer to the debate in the other place, which got increasingly hysterical. At page 103 of the uncorrected *Hansard*, the minister commented on amendments 7 and 8. He said —

> 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 —

That is, Mr Peter Katsambanis, the member Hillarys —

> 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.

I take it then that the minister, to put it mildly, did not know what he was talking about—correct?

Hon ALANNAH MacTIERNAN: We are not opposing the motion. We are dealing here in this place with the motion, not the bill at large.

Hon NICK GOIRAN: How things have changed since last Thursday! Last Thursday, we were told that what Hon Rick Mazza was doing was inappropriate, unnecessary and burdensome on tenants. Effectively, the Liberal Party in particular was vilified for having anything to do with the Shooters, Fishers and Farmers Party, as was anyone who supported what the honourable member was trying to do. On multiple occasions in the other place, the question was asked rhetorically: why create unnecessary burdens? I note that tonight the minister in this place has also suggested that somehow this amendment moved by Hon Rick Mazza will create a burden, something quite onerous, on a tenant. What Hon Rick Mazza is asking the tenant to do is to pick up the invoice and give it to the lessor with the proviso that it be done within 14 days. I challenge the government in either this or the other place to explain, in a cogent and sensible fashion, how that is onerous to any particular individual. It is absolutely the opposite of onerous. I might add that it is in circumstances in which ordinarily a tenant cannot make alterations to a property without the consent of the lessor.

The government's bill, which we have all supported—this particular clause has been through both places and agreed to—creates an extraordinary power for a tenant who is subject to family violence to make alterations to a property without the consent of the lessor. That is an extraordinary power that will be created by this Parliament for circumstances in which we, the Parliament, say it is necessary to do so; it is necessary for the alterations to be done without the consent of the person who actually owns the property, for the sake of the person who is subject to family violence. We have all said that, and all that Hon Rick Mazza is saying is that that should not be done in secrecy. Why this government is so obsessed with secrecy and a lack of transparency is beyond me. All that we ask is that the tenant lifts the document—surely, it is not too heavy and is most probably one page only—and provides it to the lessor within 14 days. That is all that is being asked. But we have been castigated time and time again and told how terrible we are for supporting Hon Rick Mazza because we will create something that is very onerous, unnecessary and a great burden.

I also note that the minister who has ultimate carriage of this bill in the other place has suggested that the reason that the amendment is not needed is that it is not victim focused. I mean, for goodness sake, Mr Chair, is it beyond the wit of government members to understand that lessors might not be perpetrators; that lessors might have absolutely nothing to do with the family violence that is taking place—nothing whatsoever—and that it is okay for them to know that their property has been altered? The notification might be in the form of an invoice that tells them what work has been done, the cost of that work—whether it was nil, $2 000 or whatever the sum—and the qualification of the person. After all, it was the Labor government that introduced the concept of a qualified tradesperson. It was the government that insisted that this type of security alteration work that will be done without consent must be done by a qualified tradesperson. The government was the one that had said so, and everybody agreed to it, and Hon Rick Mazza simply asked for the tenant to lift the document and give it to the lessor. But last

Thursday we were told that that is very onerous, very unnecessary and outrageous, and that we are terrible human beings if we can possibly agree with Hon Rick Mazza on this topic.

Lest anyone think that that was a long, long time ago, on Thursday—just yesterday, 4 December—Dr Mike Nahan, MLA, received a letter from Bill Johnston, Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement. I do not know whether Hon Rick Mazza has seen this, but his name has been taken in vain by the minister. The minister wrote —

> Despite being part of the Committee process, Hon. Rick Mazza MLC moved a number of further amendments.

Can members imagine a member moving an amendment in this place despite being part of a committee process? I will tell the government that should there one day be a bill in this place to do with end-of-life choices, I was part of the committee process and a heck of a lot of amendments will come forward.

I digress. The letter continues —

> These amendments are not supported by the Government and, in my view, are inconsistent with the Committee's report.

It does not go on to explain in what way it is inconsistent with the report. I was the deputy chair of that committee. In no way has anything that Hon Rick Mazza done been inconsistent with the committee report. The committee report may be silent on a topic such as this issue. That is no wonder, because the committee was asked to report in such a tight time frame. It was less than the time that the house gives to the Standing Committee on Uniform Legislation and Statutes Review. It is no wonder the report was silent on a lot of things. I can hardly blame Hon Sally Talbot for having to try to chair a committee in such a short time. She did her best, but apparently it is not good enough for Bill Johnston.

He continues in his letter —

> While the Government did not support the further amendments, the Liberal Party in the Legislative Council did.

Funny that. Anything that the Liberal Party does in the Legislative Council apparently just becomes the law of the land. He forgot to mention that a stack of other parties in this place also agreed with Hon Rick Mazza. That was just yesterday, yet, if my ears do not deceive me, I heard the minister just moments ago indicate that the government is supportive of this. What has happened in the last 24 hours? When was this letter drafted? Was this letter drafted on Thursday and it finally got to Australia Post and to Dr Mike Nahan yesterday? What is going on with this government that on Thursday, and as of yesterday, the day that this letter was received, it was a great outrage that anyone could agree with Hon Rick Mazza, but today it is okay? I think that is what we call egg on the face of the government for its absolute stupidity of last week. It was not the first time in the last three weeks that we have had our time wasted in this place over pointless objections by the government, only to find that when push comes to shove, it agrees. Like Hon Michael Mischin, I am delighted that, at long last, as tortuous as the process has been, commonsense has prevailed and the government has realised that it is not unnecessary or onerous for a tenant to lift a document and give it to a lessor within 14 days.

Hon ALANNAH MacTIERNAN: The minister has made these concessions in order to get the bill through. We listened to the concerns of Hon Rick Mazza and we agreed that there needs to be some mechanism whereby the landlord receives notice that there would be alterations. That is why we moved amendment 6, which we thought would adequately deal with that because, at the end of the day, the tenant will still have the obligation to make good that they would always have had. It was not as though we were arguing for secrecy. We took on board the concerns of Hon Rick Mazza and, therefore, moved what is now described in the document before us as amendment 6. We did not get it through, so it is not that the minister has changed his mind about what is reasonable and what is the most appropriate way, but we cannot always let the best be the enemy of the good. We have decided to move on. Hon Nick Goiran might want to read some of the annexures to the minister's letter and that might give him an idea of why the minister was a bit concerned.

Hon NICK GOIRAN: I thank the minister for inviting me to refresh my memory with the letter of 4 December. One thing that I forgot to quote a little earlier was the penultimate paragraph of the letter provided by the government yesterday, so I quote —

> The Christmas and New Year period is tragically characterised by a spike in domestic violence. To assist Western Australian victims, I am seeking confirmation of the Parliamentary Liberal Party's support for the Bill.

I might say several things about that. The Parliamentary Liberal Party has always supported this bill. It has supported the bill at every stage in every house. The other point is that it is very, very cute of the government

to refer to the Christmas and new year period as tragically characterised by a spike in domestic violence when its own bill will not be ready by that very time. It was this minister who on only Thursday last week told us that the government would not be ready until the end of February. It is pathetic, dirty politics by the government to refer to the Christmas and new year period as tragically characterised by a spike in domestic violence and somehow imply that we are holding up this legislation and that there is going to be more domestic violence because of our behaviour. It is pathetic, dirty politics. The government has been caught out yet again on another bill because of its mismanagement. I simply ask that we support Hon Rick Mazza in a unanimous fashion at this time.

Hon ALISON XAMON: I rise to get further clarification about this amendment. I am concerned to hear about conversations that occurred in the other place that make reference to similar provisions to this attracting a penalty and what sounds like a quite onerous and over-the-top response in the event of breach. I of course recognise that members in the other place did not have the benefit at the time of being able to view the specific amendment in front of us today. I am concerned to ensure that any future interpretations of the specifics of this provision are simply viewed as a result of discussions in this place and not as a result of any discussions that may have occurred in response in the other place. As such, I wish to get confirmation that my understanding of the way that this will operate is correct; that is, when receipts are provided for work having been done, the tenant has the responsibility to simply hand those invoices, those receipts, to the lessor and that in the event that an official receipt is not provided, that simply confirmation by the person who has undertaken the work that they have undertaken it will suffice for the purpose of being defined as an invoice, and that this provision will apply when invoices have actually been provided. I also want to confirm that in the event that an invoice is not supplied, it may constitute a breach of the tenancy, but no specific penalty flows.

Hon ALANNAH MacTIERNAN: I just want to clarify that I think in relation to that last matter, if the tenant does not comply with the obligation set out, which is to provide a copy of an invoice to the lessor, it could constitute a breach of the Residential Tenancies Act, but even though it is a breach of the act, there is no penalty attached to it.

Question put and passed; the Council's amendment insisted on.

The CHAIR: Members, we now come to contemplation of amendment 8 contained in the message. I draw members' attention to supplementary notice paper 67, issue 10.

Hon MICHAEL MISCHIN: This relates to another amendment that was proposed and moved by Hon Rick Mazza. The purpose of amendment 8 is to similarly evidence, in the same way as the making of alterations, the completion of restoration work. If members read it in context, proposed additions to section 47 of the principal act will read —

> For the purposes of subsection (4) —
>
> …
>
> (d) the tenant must restore the premises to their original condition at the end of the residential tenancy agreement if the lessor requires the tenant to do 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.

I understand the concern on the part of the government and also on the part of Hon Alison Xamon, and I think others have also had the opportunity to reflect on the wording of that over the last several days in a rather less panicked and rushed atmosphere. We have been able to consider more carefully whether the intention behind that, worthy as it is, is properly reflected by the amendment that Hon Rick Mazza proposed and which was passed. The way that it has resolved itself is that there can be an improvement made to that. There are two implications. Firstly, that it requires a qualified tradesperson to do the restoration work. The work may not have to necessarily be done by a qualified tradesperson to be of an adequate quality. In the general obligations under the Residential Tenancies Act and tenancy agreements, there is a requirement to make good premises at the end of a tenancy. It seems to be unnecessarily onerous to require a qualified tradesperson to do the restoration work at the completion of the obligations of the tenant, in this case. Secondly, a copy of the invoice must be provided to the lessor within 14 days of the restoration work being completed. That would seem to still be a worthy thing so that the lessor knows not only that work is proposed on his or her premises but also that the work has been completed on his or her premises and that when the restoration takes place, there is some evidence that it has been done in a proper fashion. Once again, we have issues with the lessor being able to go to someone and say, "You've made a mess of it. I can't go after the tenant because they're impecunious." They may not have the resources to be able to do it, but there is a certain quality that has been maintained.

The alternative that I have proposed is in the supplementary notice paper, and that is to not insist on amendment 8 and to move an alternative form of words. That appears at 1/AA8 on supplementary notice paper 10, by substituting the words —

> so and, where restoration work has been undertaken by a tradesperson, must provide to the lessor a copy of that tradesperson's invoice within 14 days of that work having been performed.

Once again, an invoice may be for a zero amount. It is really just evidence of the work that has been done. Members will note that I have omitted the necessity for it to be a qualified tradesperson. It can simply be a tradesperson such as a basic handyman who does this sort of restoration work—someone who knows what they are doing—which is not uncommon when tenants are restoring a premises at the end of a tenancy. It could be a carpet cleaner or it could be any tradesperson who knows what they are doing and can remove security screens and do other sorts of work. If it involves electrical work, a higher qualification and experience will be necessary, but this amendment has a lot more latitude. Of course, the invoice can be delivered for a zero amount. It can be a tradesperson who is provided by a women's refuge or another community organisation such as a church group—whatever it happens to be. I hope that this is a suitable compromise, which will achieve the ends that Hon Rick Mazza and others were concerned about, but at the same time will ameliorate the concerns of Hon Alison Xamon and the government and will not impose greater than normal obligations on tenants who were hoping for the benefit of this legislation. I move —

> That the Council does not insist on amendment 8 and makes the following alternative amendment in substitution —
>
> > Page 11, line 2 — To delete "so." and substitute —
> >
> > > so and, where restoration work has been undertaken by a tradesperson, must provide to the lessor a copy of that tradesperson's invoice within 14 days of that work having been performed.

The CHAIR: Procedurally, we are going to deal with this in a precise fashion. I know you will all want to assist in that. A couple of questions will have to be put, but first it might be helpful if Hon Rick Mazza, who was seeking the call, makes a brief observation.

Hon RICK MAZZA: I will support the alternative amendment. The original amendment required that the restoration be undertaken by a qualified tradesperson and the invoices then provided to the lessor. The reason the original amendment had those words was to be consistent with the requirement in the bill for a qualified tradesperson to install those fixtures. It would follow that a qualified tradesperson would have to remove those fixtures, particularly when a licensed tradesperson was needed. After a lot of discussion behind the Chair, there was some concern that work such as patch and paint would require a qualified tradesperson, which would be an extra expense and burden on the tenant. I accept that. The amendment put forward by Hon Michael Mischin is a good alternative. If a tradesperson such as an electrician or some sort of security installer is required for those items to be removed, invoices would be provided. I expect that in the vast majority of cases, the lessor will not require those additions to be removed. However, there may be the odd occasion when the lessor believes that they are ugly and wants them removed or the tenant will want to take them down to move them elsewhere. In those cases, there will have to be a restoration. On page 11, in proposed section 47(5)(e), the bill states —

> the tenant must restore the premises to their original condition at the end of the residential tenancy …

I think it would be near on impossible to restore the premises to their original condition if brickwork or fascia has been drilled into to attach those fixtures. I think that most reasonable landlords would understand that it would be patched and painted, but it will never be restored to the original condition. I think the government's bill is more onerous than my original amendment that required a tradesperson to remove those things and provide the invoice. Having said that, I am very comfortable with the alternative version moved by Hon Michael Mischin and I will support that.

Hon ALANNAH MacTIERNAN: We will not oppose this substitution. We certainly think it is an improvement on what was there. I point out to Hon Rick Mazza that the provision of "making good" is a fairly standard provision and obligation on a tenant. However, we are happy to let this substituted amendment go through.

The CHAIR: This process is slightly different from our normal dealing with consideration of a bill in the Committee of the Whole House. We are not considering a bill in the Committee of the Whole House at the moment; we are considering a message in relation to a bill in the Committee of the Whole House. The words I am about to put are a little bit different from the form in which I would normally frame a question. In the first instance—I have noted that there seems to be agreement about this—there will be a question that the alternative amendment be substituted. That will then alter the matter that we will be dealing with. If that is agreed to, we will then proceed to the rather more substantial question that the alternative amendment be insisted upon. There are two parts to this.

The first is that we work out what we will insist on or not. Hon Michael Mischin has moved the amendment standing in his name on the supplementary notice paper. In the first instance, I will put the question that the alternative amendment be substituted.

Question (alternative amendment) put and passed.

The CHAIR: I think we have led our way to the motion that now substantively stands in Hon Michael Mischin's name. I do not know that anyone wants me to read it out. The motion is —

> That the Council does not insist on amendment 8 and makes the following alternative amendment in substitution —

They are the words we have just agreed to. The question is that the motion be agreed to.

Hon NICK GOIRAN: Obviously, I agree and will support the motion. I stand to clarify something with the government because I am concerned with what I can see is potentially happening here. All of a sudden the government is using language that it will not oppose what has occurred. That is good; we are making progress. Despite the fact the government said it would not oppose it, I heard from the Chief Whip in this place that there was some opposition. I want to be very clear here with the minister because it is very important for the social services sector that we have certainty at the end of this process. That is the thing it is wanting. I want to be very clear that the government is not saying, "Look, here in the Legislative Council we will not oppose what is going on here because we want progress", and when we find the bill goes to the other place with the amendment, the government has a contrary position. As I indicated previously this evening, the government had a radically different position on Thursday last week, still very different yesterday, now all of a sudden, today, it is not opposed. Can we get clarification from the minister: will these amendments be supported by the government in the other place or is all this a big waste of time?

Hon ALANNAH MacTIERNAN: The member tried to run this last time, and we made it very clear that any amendment that we supported, as we certainly did, would be supported in the Legislative Assembly. Of course, this is a settlement that has been agreed to by the responsible minister.

Question (the Council's original amendment not insisted on) put and passed.

Hon ALANNAH MacTIERNAN: I move —

> That the Council does not insist on amendment 15.

Hon MICHAEL MISCHIN: For the same reasons that we did not pursue the issue with amendment 1, we will not pursue this amendment. It is an infelicitous use of language. I do not believe it is in the United Nations convention. It seems to have had its genesis, if one can follow its spoor through various documents, in a rather poorly worded phrase in the Australian Law Reform Commission report, which found its way into Victorian legislation and now seems to have been picked up without any critical analysis for this legislation, but it does no harm. It probably will not do much good, but we are not going to oppose the rejection of that amendment.

Hon RICK MAZZA: I rise to say that this amendment really just mirrors amendment 1 that we discussed earlier. All the debate around that amendment is relevant to this one. This bill simply amends two pieces of legislation and this amendment mirrors the first one that we have already debated.

Question put and passed; the Council's amendment not insisted on.

Hon RICK MAZZA: I move —

> That the Council insists on amendment 21.

Hon ALANNAH MacTIERNAN: I acknowledge that we will not be opposing this motion.

Question put and passed; the Council's amendment insisted on.

Hon MICHAEL MISCHIN: This is a journey of exploration for all of us. I have never encountered this procedure in the last nine years of serving in this place. It is a novelty and a change is as good as a holiday.

Amendment 22 reflects amendment 8 but in respect of residential parks long-stay tenants. The wording is pretty much the same and for the same reasons, I propose an alternative amendment crafted to accommodate providing a tradesperson's invoice to a park operator within 14 days of restorative work having been performed by that tradesperson. I therefore move —

> That the Council does not insist on amendment 22 and makes the following alternative amendment in substitution —
>
> Page 34, line 32 — To delete "so." and substitute —

so and, where restoration work has been undertaken by a tradesperson, must provide to the park operator a copy of that tradesperson's invoice within 14 days of that work having been performed.

The CHAIR: Again, I will invite the Committee of the Whole to consider this amendment in two steps. The first question is that the alternative amendment be substituted.

Question (alternative amendment) put and passed.

The CHAIR: The question now is that the motion that the Council does not insist on amendment 22 be agreed to.

Question (the Council's original amendment not insisted on) put and passed.

Hon ALANNAH MacTIERNAN: I move —

That the Council does not insist on amendment 23.

We think this amendment might have been sent to the Assembly in error. We do not think we actually moved it.

Hon Nick Goiran: You had better check the *Hansard* and you will quickly see that you moved it and we all agreed.

Hon ALANNAH MacTIERNAN: In any event, there seems to be some confusion. There was some dispute about whether this amendment was dealt with. We are happy to remove it. Can I just say, because this will be the last motion, that I thank the members who have tried to bring these matters to a resolution. I particularly thank Hon Alison Xamon, who has played a very positive role.

Hon MICHAEL MISCHIN: For the record, and for the assistance of those who will have to deal with this in the other place in due course, amendment 23 was a government amendment. It closed off the notice requirement regarding alterations to a property. Amendment 6 inserted a requirement that a tenant advise a lessor in advance of the intention to make alterations. That is mirrored by amendment 20 for residential parks long-stay tenants. Amendment 23 requires a residential parks long-stay tenant to inform the lessor that the alterations have been completed. The purpose of that amendment is to complement an amendment that the government had proposed in supplementary notice paper 76, issue 8, at 42/12, which was in like terms to this amendment in respect of residential tenancies. After the passage of the invoice amendments that we have dealt with, Hon Alannah MacTiernan withdrew proposed amendment 42/12 as "no longer required". However, it seems that this amendment was overlooked. It is not unreasonable or burdensome that a lessor should be told about what foreshadowed works have been implemented on the lessor's property. It is sensible. It may also have safety implications. A lessor needs to know whether, and to what extent, their property may have been converted into a fortress or protected in some way. However, advice about the completion of the works is dealt with by Hon Rick Mazza's amendments 7 and 21. In that sense, amendment 23, like amendment 42/12, is redundant. The tenant does not need to tell the lessor or the park operator that it has been done because there will be an invoice within 14 days showing what has been done. But this only highlights that invoice provisions or something like them are necessary so that a lessor knows what has been done to their property and what might need to be restored in due course. There is no need for this particular provision and there is no harm in it being removed. I find it a little ironic that when Hon Nick Goiran asked a few minutes ago whether the government not opposing amendments here meant that they would be supported in the other place, the minister responded, "Any amendment we support, we will support in the other place". Well, this one was not! This one went to the other place as a government amendment and the minister down there lambasted it and, with the numbers down there, rejected it. So that is not quite right. Anyway, I am given some comfort that history will not repeat itself in respect to the current ones. We do not insist on this amendment.

Hon MARTIN ALDRIDGE: I am a bit confused by this motion. Maybe the minister could assist me. When amendment 23 was sent down to the other place, Hon Bill Johnston told the Assembly that this amendment was not needed because amendment 20 had dealt with the issue. Amendment 20 provides for written notice to the park operator of the tenant's intention to make the prescribed alterations. Amendment 23 provides that notice of prescribed alterations is to be given to the park owner following the alterations being made. Minister, was Hon Bill Johnston wrong in what he told the other place?

Hon ALANNAH MacTIERNAN: As the member is aware, there was a fairly fluid situation going on. He would be aware that there are two sets of parallel amendments because there are two pieces of legislation. That provision was drafted by the advisers when we were dealing with the first piece of legislation. That was expressly withdrawn, because we did not want to proceed with that. There seems to have been some confusion when we came to the second piece of legislation. That was what the minister was picking up on—that we had actually withdrawn the amendment in relation to the first set of legislation and it was certainly our intention to remove it for the second. Somehow or other, in the chaos of the day, that did not happen, but that has been corrected.

Hon MARTIN ALDRIDGE: I tend to agree that the minister's handling of this matter in the other place was chaotic, but I do not accept the Minister for Regional Development's explanation. I agree with her. If I am not mistaken, the reason amendment 23 is not required is that amendment 22, not amendment 20, has now dealt with the matter of notification following alterations, because of the provision to provide an invoice within 14 days. I think we should be very clear that there was confusion in the other place. Minister Johnston said —

> … 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.

I think if anyone was confused or chaotic, it was Minister Bill Johnston in not realising that this amendment related to amendment 22 and not amendment 20. Indeed, it was you, minister, who moved the amendment.

Hon ALANNAH MacTIERNAN: I do need to explain. Minister Johnston was correct. What happened is that the advisers drafted several variants of amendments as we worked to accommodate the concerns of Hon Rick Mazza and others on the issue of notification. In the first instance, given amendment 6 and its parallel amendment 20 in the two pieces of respective legislation, it was our view that this other notification provision was not required. These were alternatives that had been drafted by our advisers giving two different methods that we could put on the table to accommodate the concerns that people had about notification and rectification. As the member can see, once we were successful with amendment 6, we then did not proceed with the equivalent of amendment 23 in that part of the legislation. It was an error, as I said, that this amendment was not withdrawn. The minister quite correctly indicated that we had put up amendment 20, and we had put up amendment 6 and an equivalent of amendment 23 in that first instance. The minister was correct in his comment that we believed that the notification provision had been dealt with by the amendments we had previously made.

Hon MARTIN ALDRIDGE: If I am wrong, I want the minister to explain this to me. She is saying that Minister Johnston was right, and amendment 23 was not required because of amendment 20. Amendment 20 relates to giving notice prior to alteration. Amendment 23 deals with providing notice after alteration. Can the minister please explain to me what I am not getting? Can she explain to me how amendment 23 is not required because of amendment 20?

Hon ALANNAH MacTIERNAN: The concern was that there needed to be some mechanism whereby the landlord was made aware of alterations that had been made, so it could be done either before or after. That was our view, when they were put up as alternatives, as is demonstrated by the fact that we did not proceed with the other amendment in the first instance. If the member wants to insist on this amendment, I would be surprised, but I have moved that we do not insist on this amendment.

Question put and passed; the Council's amendment not insisted on.

Report

Resolutions reported, the report adopted, and a message accordingly returned to the Assembly.