Legislative Assembly

Thursday, 20 October 1994

THE SPEAKER (Mr Clarko) took the Chair at 10.00 am, and read prayers.

STATEMENT - SPEAKER

Media, Not Taking Photographs of Chamber

THE SPEAKER (Mr Clarko): I advise that the media have recently advised that they will not be taking photographs today.

PETITION - LATHLAIN PRIMARY SCHOOL, SUPPORT

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.04 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undermentioned petitioners wish to indicate to the State Government our support for the Lathlain Primary School as it is a major community asset for the suburb of Lathlain; clearly defined by the railway line and the major roads Great Eastern Highway and Orrong Road.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 402 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 138.]

PETITION - SCHOOL CROSSING WARDEN, BERWICK STREET, EAST VICTORIA PARK

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.05 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undermentioned petitioners call on the State Government to reverse its decision to withdraw the warden controlled school crossing on Berwick Street, near Balmoral Street, East Victoria Park.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 113 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 139.]

PETITION - CRIME, LEGISLATION INITIATIVES, CITIZENS OF HELENA

MRS PARKER (Helena) [10.06 am]: I present the following petition -

> To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned citizens of Western Australia:

Request that the Parliament ensures that legislative initiatives proposed by the Government including:

- tougher sentences for crimes involving violence;
- the Young Offenders Bill;
- Bills to amend the Criminal Code to address stalking, assaults against police officers and breaches of restraining orders; and
- a Bill to reduce trade in stolen goods;

be passed by the end of 1994 to protect the citizens of Helena.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 263 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 140.]

JOINT STANDING COMMITTEE ON THE COMMISSION ON GOVERNMENT

Minority Report Tabling, Speaker's Ruling

THE SPEAKER (Mr Clarko): Yesterday the member for Victoria Park, in his capacity as a member of the Joint Standing Committee on the Commission on Government, sought to table a minority report separately from the report from that committee which was tabled in this House on Tuesday. As the standing orders relating to select committees in the Assembly apply to the joint committee, I refer to Standing Order No 377, which finishes with the sentence, "A protest or dissent may be added to the report." I have no doubt that when the House adopted this standing order it was envisaged that a protest, dissent or minority report was to be presented to the House with the report itself. The consistent practice of this House bears that out.

If I were to rule that a minority report can be presented on some later sitting day, even to correct some difficulty which had arisen in the committee, I would be providing a procedural avenue which was never intended to be available. I therefore rule that the minority report may not be tabled in the way which the member for Victoria Park sought to do yesterday and consequently have asked the Clerk to return the document to him. In this case, I am in the unusual position of knowing what transpired in the committee and the limitations which were placed on the member for Victoria Park and others in producing the minority report. There is some validity in the view that the member for Victoria Park has attempted to present the minority report at the earliest opportunity, and indeed on Tuesday he told the House of his intentions.

Minority reports must continue to conform with Standing Order No 377 and must be presented with the committee report itself. Although we should not provide a meaning for Standing Order No 377 which it was never intended to have, I have had some discussions with members of both sides of this House, all of whom acknowledge the special circumstances. As a result, I understand that in order to remedy this present difficulty in such a way as not to create a precedent in the future, a motion will be put to the House shortly which will enable the member for Victoria Park to present the minority report. I encourage this approach.

The member for Pilbara suggested that the report tabled on Tuesday was invalid because it did not contain a statement in accordance with Standing Order No 378(b), which requires that every report of a committee shall include a statement showing the actual, or estimated, costs of the operation of the select committee. It has been the practice of this House that where standing committees or select committees produce a number of reports, the statement be provided either on an annual basis in the case of a standing committee or

in the final report in the case of a select committee. That is a sensible operation of that standing order and it has been the practice of this House since that provision was adopted in 1988. Consequently, the absence of that statement does not invalidate the report.

MOTION - STANDING ORDERS SUSPENSION

Joint Standing Committee on the Commission on Government, Minority Report Tabling

MR RIPPER (Belmont) [10.10 am]: I move -

> That so much of the standing orders be suspended as is necessary to enable the member for Victoria Park to present for tabling a minority report to the Report of the Standing Committee on the Commission on Government, and for the minority report to be appended to the report tabled on Tuesday, 18 October 1994.

Mr Speaker, as you foreshadowed, I move this motion with the Government's agreement following discussions with you, as chairman of the committee, and members from both sides of the House. The minority members of the committee have asked me to very briefly make the following points: Those members of the Opposition who are on the Joint Standing Committee on the Commission on Government believe that the standing orders were not adhered to in the presentation of the majority report. They have drawn my attention to Standing Order No 377 which states -

> The Chairman shall read to the Committee convened for the purpose the whole of his draft report . . . in considering the report the Chairman shall read it paragraph by paragraph, putting the question to the Committee at the end of each paragraph, "That it do stand part of the report."

That procedure was not followed and the majority report was not given to committee members before it was tabled. The member for Victoria Park requested a delay in the tabling of the majority report to enable the minority report to be appended to it. There was an understanding behind the Chair that some procedure would be adopted which would enable the minority report to be tabled. Despite those points, the Opposition agrees with the settlement which has been reached and I am pleased that the motion will be supported by both sides of the House. Later today the member for Pilbara will address the points I have raised about the whole procedure in more detail in the debate on the Loan Bill.

MR C.J. BARNETT (Cottesloe - Leader of the House) [10.12 am]: The Government supports this solution to the problem and I commend you, Mr Speaker, for the way in which you have been able to resolve it. Special circumstances occurred in this case and members will agree that it is appropriate that the member for Victoria Park is able to present the minority report. I make the point, even though it does not apply in this case, that Standing Order No 377 is included in the standing orders for the obvious reason that if members did not abide by it it would be possible, in theory at least, for a member wishing to present a minority report to wait until the majority report had been tabled to gauge the public and media reaction. That is not the case in this situation and it is important that we treat it as a special case and allow the member for Victoria Park to present his report. We should not create a precedent that would allow members of a committee to take advantage of any provisions to table late minority reports.

Question put and passed with an absolute majority.

JOINT STANDING COMMITTEE ON THE COMMISSION ON GOVERNMENT

Minority Report, Tabling

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.13 am]: Mr Speaker, thank you for your assistance in this matter. I have for tabling the Minority Report of the Joint Standing Committee on the Commission of Government, First Report.

[See paper No 427.]

MINISTERIAL STATEMENT - MINISTER FOR LABOUR RELATIONS

Building and Construction Industry, Safety Meetings

MR KIERATH (Riverton - Minister for Labour Relations) [10.14 am]: I wish to inform the House of progress the Department of Occupational Health, Safety and Welfare is making to ensure the targets set by this Government to reduce workplace injury are achieved. There has been some concern that health and safety regulations on building sites, particularly those in the south west of the State, were not being followed. There were cases of electrical equipment not being tagged, milk crates and drums being used as platforms, incorrect erecting of scaffolding and lack of fall arrest equipment, guard rails and fender boards, and so on.

To improve safety without interrupting work on sites, the department established a strategy to ensure that all parties involved were aware of their obligations under the legislation. Firstly, there were consultations with the Master Builders Association, the Building Management Authority, the Chamber of Commerce and Industry and the relevant unions to identify the areas of concern. Following that, 250 building subcontractors received a letter outlining building safety concerns and offering assistance from the department. Each major contractor was approached independently and encouraged to manage health and safety more professionally. Finally, there was an increased presence by inspectors on sites, and notices of infringement were issued where appropriate.

In the first month, February, 88 notices were issued, and a similar number were issued in March. Since that time standards have improved dramatically. Two forums for contractors and unions were held and were most productive. It is intended to hold further meetings every six months. This improvement is most significant, given that the construction industry employs only 8 per cent of the work force, but occupies 23 per cent of the inspectorate of the Department of Occupational Health, Safety and Welfare. This State has twice as many inspectors in relation to construction worker numbers than New South Wales, Victoria and South Australia, and only 0.1 per cent fewer than Queensland.

This increased activity to improve health and safety at work will also expose the behaviour of some union officials who call strikes ostensibly on safety grounds, when in fact they are merely trying to lean on the employer over some industrial matter. This exercise is being met with support and cooperation by all groups, including the Builders Labourers Federation, which said it encouraged the meetings. The Master Builders Association, which is running induction courses for new employees and participants, says it welcomes the increased information, particularly to the smaller contractors.

There has been such a positive reaction to these safety meetings that consideration is being given to similar meetings in the metropolitan area. These actions are designed to save the lives of working Western Australians and to show people we are not only serious about safety issues, but also we will achieve our goals.

MINISTERIAL STATEMENT - MINISTER FOR HOUSING

Homeswest, Lockridge and Kwinana Housing Redevelopment Programs

MR PRINCE (Albany - Minister for Housing) [10.17 am]: I rise to make a brief ministerial statement regarding the Government's plans to upgrade public housing estates at Kwinana and Lockridge. Following Cabinet approval on Monday, $5m has been allocated in the current financial year for these Homeswest projects, both of which could take up to six years to complete. In the long run, because home and land sales will offset the cost of redevelopment, it is anticipated that the redevelopment will be completed at a profit. These are exciting projects which have been far too long in coming; certainly they have been talked about for some time. I am pleased, and I have no doubt that the communities are pleased, that this Government has now given the go ahead for projects which will improve the quality of life of all residents in these areas.

Very serious social problems have arisen from an over-concentration of public housing in areas such as Lockridge and Kwinana, parts of which have become little better than

ghettoes. Working with the private sector the Government is acting to address the social problems in these two localities, and in the process it will transform Lockridge and Kwinana into far more desirable areas in which to live. These estates were built between the 1950s and 1970s to provide housing and community facilities for the work force which, in the case of Kwinana, was burgeoning because of the growth of the industrial area.

As the role of Homeswest changed from that of assisting workers to that of assisting people on welfare of one kind or another, the demography of the tenants changed dramatically. The result was that the estates housed one socioeconomic group with the attendant social problems of high unemployment, high crime rates and a breakdown in community values, tarnishing the image of public housing in the process. The program on which we are about to embark will change the character of the areas in the most positive way. Just under a quarter of the homes in Kwinana are Homeswest properties, with 1 311 dwellings spread over clusters in Orelia, Parmelia, Calista and Medina. There is an excessive number of apartments and a very high vacancy rate. However, there is also valuable broadacre land ideal for first home buyers, particularly given the recent opening of the latest stage of the Kwinana Freeway. A massive 44 per cent of the homes in Lockridge are Homeswest properties - 811 dwellings, essentially in one concentrated location. Again, there is an excessive number of apartments and town houses, and a very high vacancy rate.

The aim of the redevelopment program is to reduce the Homeswest presence in these areas to just 15 per cent, and to ensure that the 15 per cent is better spread throughout the total area. Although the details are to be finalised, the projects will involve the complete replacement of some housing, the refurbishment of other homes prior to sale to genuine first home buyers, and the subdivision and sale of land - again targeted at first home buyers. A thorough feasibility study has shown the program has strong economic viability in terms of home and land sales, and should have a beneficial effect on property values in surrounding areas.

I am pleased to announce that after a rigorous selection process which involved calling for registration of interest from prospective developers, McCusker Holdings Pty Ltd and Satterley Real Estate will be joint project managers for the Kwinana project while Voran Consultants has been appointed for Lockridge. As we are very much aware that these projects will affect many people, either living on these estates or nearby, the project managers will ensure there is ongoing consultation with local communities and authorities.

Mr Speaker, we have already received strong support from the communities and local authorities concerned, all of whom recognise that these programs will transform Lockridge and Kwinana for the better. I commend them to the House.

WESTERN AUSTRALIAN TOURISM COMMISSION AMENDMENT BILL

Second Reading

MR C.J. BARNETT (Cottesloe - Leader of the House) [10.20 am]: I move -

That the Bill be now read a second time.

The role of the Western Australian Tourism Commission is to accelerate the sustainable growth of the tourism industry for the longer term social and economic benefit of the State. Tourism in Western Australia is a major growth industry employing approximately 67 000 people and generating direct expenditure of nearly $2b per annum. The role of the Western Australian Tourism Commission has been under review since we took office, with the objective of achieving optimum efficiency within the organisation and the effective participation of the private sector in forming policies and strategies.

This Bill proposes to amend the Western Australian Tourism Commission Act 1983, which was extended by one year to 31 December 1994, and has been prepared after extensive consultation with the industry. In summary, the amendments seek to -

Extend operation of the Act to 31 December 2004 with a further review of its operation and effectiveness after five years - that is, 1999.

Generally update and clarify the functions and powers of the Commission, particularly its role in promoting, developing, facilitating, organising and administering activities associated with events and conventions.

Separate the position of chairman and chief executive officer and define their respective roles and responsibilities.

Introduce the concept of a distinct "board" of management.

Make appropriate adjustments to the basis of appointment/remuneration of board members.

Strengthen provisions relating to resolutions of conflict involving the pecuniary interests of board members and breaches of confidentiality.

Provide "standard" authority for the giving of ministerial directions to the commission.

Introduce a new section allowing the Minister to have access to information consistent with the recommendation of both the Burt Commission on Accountability and the royal commission.

Western Australia is enjoying a boom in interstate and international visitor arrivals with growth rates exceeding the overall growth of Australian arrivals. Although growth rates of 10 per cent were considered exceptional in the 1980s, growth rates in excess of 20 per cent are now regularly being recorded from international markets. These high growth rates have resulted in an increase of nearly 4 000 new jobs in tourism related industries in Western Australia during 1993-94.

As mentioned earlier, provision has been made in the Bill to review the operations and effectiveness of the commission after five years, in 1999. During that period exciting growth targets have been set for the industry including the doubling of international and interstate visitor arrivals to approximately one million and 900 000 respectively and a 25 per cent increase in intrastate visitor trips to approximately 6.2 million. To cope with this demand further investment is required in both public and private sector infrastructure with a need for more hotel rooms, man-made attractions, new international gateway airports and tourism product on the ground in all key tourism areas of the State. This Bill allows for the continuation of the Western Australian Tourism Commission including its highly respected and high profile tourism, events and convention units at a time when tourism is a vital industry in expanding Western Australia's economic base. Mr Speaker, I commend the Western Australian Tourism Commission Amendment Bill to the House.

Debate adjourned, on motion by Mr Ripper.

FINANCIAL TRANSACTIONS REPORTS BILL

Second Reading

MRS EDWARDES (Kingsley - Attorney General) [10.24 am]: I move -

That the Bill be now read a second time.

In 1992 the Standing Committee of Attorneys General agreed to model state legislation requiring cash dealers to provide information to state police regarding offences against state laws and protecting cash dealers against legal action in relation to providing that information. The Financial Transaction Reports Bill implements that standing committee agreement. All other States have enacted this legislation.

The reason this Bill is only now being introduced is the change of State Government since that 1992 standing committee agreement. Therefore, the present Government had to consider this legislation and consult relevant organisations and individuals such as the WA Police Department, the police proceeds of crime unit and the WA Director of Public Prosecutions.

The primary object of the Bill is to facilitate the enforcement of Western Australian laws. That is an objective which I know is endorsed by all members of the Western Australian Parliament. This Bill must be read in the context of the Commonwealth Financial Transaction Reports Act 1988. That Commonwealth Act has three principal purposes. Firstly, it establishes the Australian Transaction Reports and Analysis Centre which collects records and disseminates information under the Act to the Australian Tax Office, Customs Service and law enforcement agencies. It requires cash dealers to report cash transactions of not less than $10 000 to AUSTRAC. Lastly, the Commonwealth Act requires a cash dealer to report to the Director of AUSTRAC when the dealer has reasonable grounds to suspect that a transaction to which the dealer is a party may be relevant to the evasion of a tax law, the investigation or prosecution of an offence against a Commonwealth law or may be of assistance in the enforcement of the Commonwealth Proceeds of Crimes Act 1987.

In relation to those matters the Bill firstly requires cash dealers to provide information to state police investigating state offences which are disclosed in suspect transaction reports to AUSTRAC. Secondly, the Bill requires cash transaction dealers to report to the agency information relevant to state offences and state confiscation of profits legislation. Finally the Bill will protect cash dealers from legal action in relation to their providing such information.

This Bill will assist Western Australian law enforcement authorities. The Government therefore looks forward to the legislation receiving the support of all members. Further, it illustrates the State Government's willingness in the appropriate circumstances to participate in legislative schemes involving other States and the Commonwealth. This further demonstrates this Government's commitment to Australia's federal constitutional system. It is a system in which the States and the Commonwealth, when federal division of powers is respected, can work together in a cooperative manner. I commend the Bill to the House.

Debate adjourned, on motion by Mr Brown.

ACTS AMENDMENT (LOCAL GOVERNMENT AND VALUATION OF LAND) BILL

Second Reading

MR OMODEI (Warren - Minister for Local Government) [10.26 am]: I move -

That the Bill be now read a second time.

I am pleased to bring before the House a Bill to significantly improve the powers and responsibilities of councils in a number of key areas. The Bill deals with amendments relating to council differential rating powers, the rating and valuation of mining and petroleum tenements, the appointment of council employees, and the regulation of offensive or indecent practices on business premises.

In relation to differential rating, members will be aware that for some time local governments have been requesting a widening of the current differential rating powers in the Act to allow rating based on different land uses. Currently councils are able to rate differentially only on the basis of zoning, using town planning schemes. This is very restrictive and does not allow councils to deal with non-conforming uses, mixed uses or other characteristics. This Bill provides for those changes, but at the same time includes further accountability measures, allowing electors and ratepayers a greater say in the rates to be levied. The power to rate differentially is to be extended from being based on planning zones to include land use categories determined by each council. The Bill also provides for other characteristics to be prescribed by regulations. Where any differentiating rates are to be more than twice the lowest rate, the Minister's approval will be required. This will overcome the existing situation where every differentiating rate must be approved by the Minister while ensuring a measure of balanced oversight remains.

Tied to these new rating provisions the Bill incorporates several new accountability

measures. A council's budget must contain details of all rates and objects for each rate. These details must be included in the rate notices to ratepayers. In addition, all proposed differential rates must be advertised and electors and ratepayers will have a 21 day period to make comments prior to a council's formal adoption of its budget. A council must consider any objection received and may adopt the differentiating rate with or without alteration. In this way the electors will have an enhanced role in council decision making and the increased accountability will balance greater autonomy and flexibility for councils in setting differentiating rates.

A ratepayer's rights of objection and appeal are to be extended to include objections and appeals against a land category and other differentiating rating groups. This is consistent with existing appeal provisions. The Bill also provides amendments to the Local Government Act and the Valuation of Land Act for valuation and rating of mining tenements. The amendments have been based on recommendations made by an interdepartmental committee and have been long awaited by councils.

The existing valuation system draws on outdated values which are better based on rentals set by the Department of Minerals and Energy and which are adjusted from time to time. these amendments change the method for valuing Mining Act and petroleum tenements for rating purposes from an amount per hectare to a formula based on the annual rent of the tenements. The method of valuation of agreement Act tenements will be the same as for mining Act tenements, although there will be a sliding scale to keep larger leases at reasonable valuation levels. It should not be assumed that these new valuation bases will automatically lead to higher rates for such tenements. The key determinant remains the rate in the dollar set by each council, which may differ widely from council to council.

An important amendment for local government is the provision to limit the application of the concessional valuation given to holders of tenements under agreement Acts. Section 533B, which contains this concession, will now apply to those owners who are now entitled to exercise the concessions and who have previously elected to use 533B or do so within three months of these provisions coming into operation.

A further provision in this Bill will empower local government to delegate to an officer the power to appoint or terminate the employment of staff. Local governments have been doing this for many years. However, a legal anomaly has cast doubt on the practice and the amendment now clearly permits this to occur. The amendment also includes validating provisions where such delegations have occurred previously. This provision reflects sound management practice and will facilitate such practices in those councils which have yet to do so. Members will recall the problems the former Perth City Council was having with the operation of the Slic Chix restaurant. Unfortunately there is no legislation to regulate or control actions which are considered to be offensive or indecent in a restaurant which is not licensed under the Liquor Licensing Act. Consideration has been given to various options for control including health, police and town planning but each had its limitations. Given the concern shown by the then Perth City Council, the preferred course of action is as set out in this Bill. The Local Government Act is to be amended to give local governments the power to make by-laws to prohibit absolutely or to license such conduct on any unlicensed premises.

All these issues are important ones for councils and their communities and in some cases have been long awaited. This Government is pleased to be able to deliver these initiatives.

Debate adjourned, on motion by Mr Leahy.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL

Second Reading

MR OMODEI (Warren - Minister for Local Government) [10.33 am]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to amend the Local Government Act and the City of Perth

Restructuring Act to give all councils the opportunity of having four year electoral terms with half the members retiring every two years; and give the restructured City of Perth and the three new towns the option of having their first elections conducted by postal vote and the State Electoral Commissioner.

Currently the Local Government Act provides that members of a council have a three year term with a third retiring each year. This system is seen as reducing accountability in that electors can vote for or against only a minority of councillors at any one time. In addition, many councils are burdened with annual election costs. The proposal to have four year electoral terms with elections held every two years is intended to enhance stability, strengthen local accountability and contribute to long term planning. This system is also proposed for the new Local Government Act.

The Bill provides councils with the option of continuing with the existing triennial system or adopting the biennial system until the commencement of the new Local Government Act which will be considered by Parliament in 1995. Those councils which choose to change to the biennial system will have the option of two methods for implementing the new system. One option will enable councils to phase in the change for elections to be held in May 1995. Members whose terms expire in 1997 will serve out their terms with their seats becoming vacant in that year. Members' terms expiring in 1996 will be reduced by one year so as to expire in May 1995. This will mean that the May 1995 elections will comprise vacancies for terms which would have expired in May 1995 and 1996. Thus about two thirds of councillors in councils which opt for this system will face elections in 1995. The other option is for a council to have a complete spill of all members' seats with the election resulting in one half gaining two year terms and the other half gaining four year terms. The Bill also provides, under the City of Perth Restructuring Act, for two new concepts in running local government elections. In an endeavour to increase voter participation in elections, provision has been made for the restructured City of Perth and the three new towns each to choose whether their first elections should be conducted by universal postal vote with a further option of having the State Electoral Commissioner run the elections.

The use of postal voting for elections, involving 18 councils, has been very successful in Tasmania, with elector turnout increasing on average from 18 per cent to 60 per cent of total electors. Regulations will be developed prescribing arrangements for the postal ballot including a high level of security measures. At the same time, there is merit in the suggestion that local government elections should be conducted independently from the operations of each council to ensure the integrity of the electoral process. Provision has therefore been made for the City of Perth and the three new towns to have the option of having their elections run by the State Electoral Commissioner, with the councils meeting the expenses incurred by the commissioner. It will be necessary to modify the electoral provisions of the Local Government Act from the traditional supervised system of voting to one of universal postal voting. This is to be achieved by regulations made under the existing powers of section 32 of the City of Perth Restructuring Act. I commend the Bill to the House.

Debate adjourned, on motion by Mr Leahy.

MINES SAFETY AND INSPECTION BILL

Committee

The Chairman of Committees (Mr Strickland) in the Chair; Mr C.J. Barnett (Minister for Resources Development) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Objects -

Mr BROWN: On behalf of the member for Pilbara, I move -

Page 2, line 10 - To delete "so far as is practicable,".

Page 2, line 19 - To delete "where practicable,".

I propose this amendment for a number of reasons. Clause 3 deals with the objects of the Bill. That is, it sets out what the Bill seeks to achieve; its aims and goals. It is not prescriptive in that it requires compliance to the point where an employer or employee can be prosecuted under that clause, but rather refers to where ultimately the industry would wish to go. In that context, the clause seeks to specify that the Bill will promote and secure the health, safety and welfare of persons engaged in mining operations, and so on. However, paragraphs (a) and (c) seek to place a caveat on those objects; namely, that safety will be achieved and promoted so far as is practicable. In talking about the objects of the Bill it is not appropriate to be discussing what is or is not practicable. That matter is appropriately dealt with in the application of the provisions of the Bill. The goal should be to seek to achieve an industry which is accident and hazard free. Whether that can be achieved remains to be seen. It certainly is a high expectation; however, it should be. An onus should be prescribed in the Bill that this is the type of industry we want; that this is our goal and these are the measures we seek to achieve, as difficult as that may be.

The second reason I move this amendment is that the Bill to some considerable extent is modelled on the Occupational Health, Safety and Welfare Act. That Act sets out in section 5 its objects. They are similar to the objects contained in this Bill. However, that Act does not place any caveats on the high ideals prescribed by that section. Section 5(a) of the Act prescribes that the objects of the Act are to promote and secure the health, safety and welfare of persons at work. That wording is similar to what is prescribed in clause 3(a) of the Bill, except the additional words "so far as is practicable" are included in this legislation. That seems to relegate this Bill to a lesser objective than the Occupational Health, Safety and Welfare Act. If we operate on the assumption, which I believe is correct, that every word in legislation means something - that no words are there for gratuitous purposes - the fact that we include in the objects of the Bill "so far as is practicable" seems to be a lower test than that which is set out in the Occupational Health, Safety and Welfare Act.

The same comments can be made - I will not draw a direct comparison - in relation to paragraph (c) of the same clause where the words "where practicable" appear. Both the Occupational Health, Safety and Welfare Act and this Bill contain a definition of "practicable". The Opposition does not take issue with that definition, because in essence the definition of practicable deals with the test that is to be applied in determining what is and what is not practicable. The test to be applied there, which is set out in paragraph (b) of the definition of practicable in the interpretation clause, has regard to the state of knowledge about the injury or harm to health referred to in paragraph (a), the risk of injury or harm to health occurring, and the means of removing or mitigating the risk of injury or harm to health; and the availability, suitability and cost of the means referred to in paragraph (b)(iii). That is in effect saying that we must seek a balance between seeking to remove the entire risk, and the cost of doing that, vis a vis the risk.

A social decision is made at that point to determine what is and what is not practicable. For instance, if a minimal risk were identified, and the cost of removing that risk was high, one would perhaps make the observation that it was impracticable to implement that measure. Conversely, were a high risk identified, and the costs of removing that risk were not great, one would not argue that the implementation of measures to remove that risk were impracticable. Although that is a test which must be applied within the body of the Bill - the Opposition has no difficulties with that - it is not appropriate that it be included in the objects. For those reasons I ask the Government to consider the amendment.

Mr C.J. BARNETT: I agree with the points made by the member opposite. Indeed, in setting out the objects of the Bill I do not think it is necessary to qualify them. I accept the amendments.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 4: Interpretation -

Mr GRILL: I move -

Page 8, after line 8 - To add the following -

(h) borefields remote from the minesite but an integral part of the mining operation; and

Section 4 of the Act, the interpretation section, contains a definition of "mining operations". It is clear that the draftsmen have endeavoured to put in place an all-embracing interpretation of what is and what is not a "mining operation", and it appears they have done a very fine job. All of that is in the spirit of this Bill, which is more all-embracing than its predecessors and the Act it replaces. All these amendments are put forward in a bipartisan spirit in the hope that we can improve the operation of the Act. In that spirit I move the amendment. Some mining operations in Western Australia draw fresh water from borefields and others draw salt water. In the eastern goldfields it tends to be salt water and in the north it is the other way round. These borefields are often well off lease, and with more a comprehensive definition those borefields remote from minesites might be added to the interpretation.

Mr C.J. BARNETT: The intent of the Bill is to take a broad definition of mining operations and include everything that is generally part of a mining operation. The member for Eyre has made a legitimate point, and we accept the amendment.

Amendment put and passed.

Mr BROWN: I wish to raise briefly a couple of matters for the Minister to respond to. The definition of "mining operations" sets out what it means in broad terms in the preamble, and paragraphs (a) to (t) go on to set out some specific activities which are included in a mining operation. The definition of a mining operation is expanded in this Bill and includes, as I think the Minister observed in his second reading speech, a number of additional areas which were not encapsulated in the former Act. The Bill expands mining operations to developmental and construction work associated with the operation of a mine, particularly the construction work referred to in paragraph (b). Paragraph (g) refers to the operation of any support facilities such as mine administration offices, workshops and service buildings. Paragraph (j) refers to the operation of residential facilities and recreational facilities. Paragraph (m) refers to the operations for the care, security and maintenance of the mine. Depending on how the word "security" is interpreted, it may or may not have been included previously in the Act.

The question I raise relates to the breadth of the inspectorial skills available within the department to deal with each of these issues. The argument over the years has constantly been, and I think still is in many respects, about where the inspectorate is located. The argument for having the inspectorate based in mines is that one cannot separate the geological factors in the mining industry from the safety factors, and that all of the expertise for the geological factors rests in the Department of Minerals and Energy and not in the Department of Occupational Health, Safety and Welfare. The weight in the argument must be acknowledged. However, equally, there are inspectors with particular skills. Even the Department of Occupational Health, Safety and Welfare does not have generic inspectors who are capable of assessing every conceivable matter that comes under the Occupational Health, Safety and Welfare Act and able to make rulings, issue notices or provide guidance to employers. Because inspectors not only have to be skilled in the application of the Act but also have a good knowledge of the matters they are examining, the question that exercises my mind and on which I would like the Minister's comments relates to the breadth of experience of those able to deal with some of these matters.

Construction work, for example, could be of a mining nature, which obviously one would interpret as needing the expertise that rests with the Department of Minerals and Energy. Construction work also could be of a typically commercial nature, such as buildings and that sort of thing. Given the fact that specific inspectors in the Department of Occupational Health, Safety and Welfare deal with construction work day to day, one would think that by watching the way the construction industry is changing with the new

materials, chemicals, safety devices and techniques available, those people would be more able to deal with those aspects of health and safety than inspectors specifically engaged in the mining industry, who may from time to time have to inspect a construction site or whatever. The operation of health and safety in administration offices is sometimes laughed at cynically. People ask, "What can happen in an administration office? A person could stab himself with a fountain pen!" The reality is much more serious than that. We have seen outbreaks of legionella and the sick building syndrome as a consequence of air-conditioning, which first occurred in the United States and has been found here. We have seen a whole range of quite sophisticated problems arise from air-conditioning, ventilation and so on in the construction of buildings. Our knowledge of how to deal with those types of problems is improving all the time.

Likewise, we have seen a great improvement in ergonomics because sometimes it is not only a question of the design of the building, it is a question of the work environment. We have had a great deal of debate about the occupational overuse syndrome. Again, one needs people who have particular expertise in that area to comprehend the problems, particularly if problems emerge which are not immediately recognisable to the untrained eye. The same concerns exist with the operation of residential facilities and recreational facilities.

What sort of expertise is available for those purposes? I am sure we all share the view that because a person happens to work in the mining industry or because a company happens to operate in the mining industry, he or it should not be subject to the same level of scrutiny and expertise as companies operating outside the mining industry when they are carrying out similar activities.

Mr C.J. BARNETT: We are talking about facilities on the mine site. We are talking therefore only about administrative buildings on the site. I concede that there will be occasions when particular expertise may be required which may not exist in the Department of Minerals and Energy. For example, a large scale construction at the beginning of a project would be handled by Department of Occupational Health, Safety and Welfare construction inspectors. This Bill is about flexibility for ongoing work which is always done on mining sites. Also, when particular issues arise such as the construction of a road for example, and expertise is required, there is a facility for inspectors from the Department of Occupational Health, Safety and Welfare or any other agency or authority to help on the job.

We are talking about remote areas. While there may be validity in the member's arguments about buildings, the fact is that the DOHSWA inspectors may never see the buildings. The principle operation is mining. That is the major focus. It is appropriate that there is a good relationship between the Departments of Minerals and Energy and Occupational Health, Safety and Welfare for bringing in expertise when required. I think the matter is being handled in a commonsense way and people are aware of the issues. They were resolved in the consultation process.

Mr BROWN: From time to time there will be debate on a site about the competence of the inspector to investigate one of those matters. It may be a matter that does not normally fall within the jurisdiction of that inspector. Is the Government likely to be receptive to a request from the work force or from the union for the inspection of a building or recreational facility which may not fall within the ordinary expertise of an inspector from the Department of Minerals and Energy or an inspector from the Department of Occupational Health, Safety and Welfare to be done by someone who has more knowledge about those facilities? Sometimes a barrier can be placed in front of an inspector by telling him that it is not his area of expertise. Will the Government make administrative arrangements, provided they are not cost prohibitive, for such an inspector to provide advice?

Mr C.J. BARNETT: The objective of the Bill is safety. If a situation arises - the member used the example of a break-out of legionnaires disease or some other exotic disease - and the expertise does not exist in the inspectorate service, I expect that commonsense will prevail and the expertise will be brought in. However, I do not envisage a situation

developing where parties believe they have a right to go outside the inspectorate service. I hope that unions, management and departments will use commonsense. If a particular expertise is needed, the Government supports that expertise being brought in to deal with the problem.

Mr BROWN: The definition of workplace includes certain things but says that it does not include catering, residential, or recreational facilities for employees or self-employed persons. Will the Minister explain that?

Mr C.J. BARNETT: I am advised it is a workplace only for those people who are there to do a particular job or service a particular task. The normal worker would return to his or her normal residence. For example, a maintenance crew may be bought in. It will stay in the camp and the temporary arrangements will be a workplace.

Clause, as amended, put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Duties of employers -

Mr BROWN: Subclause (1) places the onus on an employer to ensure that the mine is free of hazards and risks. However, the obligation on the employer is not absolute because his obligation to do those things exists only as far as practicable. What constitutes practicable? Subclause (7) also provides that an employer who contravenes subclause (1) is liable to penalty. The penalties specified are quite substantial; a fine of $100 000 for a corporation and $10 000 for an individual. I ask the Minister to advise me of the test that will be used by the court in determining this matter. I raise that because the requirements set out in subclause (1) are not absolute. In the case of the Traffic Act, for example, in a zone in which the maximum speed limit is 60 kilometres an hour, a device is installed to measure the speed of traffic and anyone driving a vehicle above that speed is in breach of the law, unless it can be shown that the measuring device is defective. With this legislation the situation is not so clear. The onus is on employers to provide a healthy and safe working environment, but it is an onus to create that environment only where it is practicable to do so. If it were not practicable to do so, an employer may argue that although an accident had occurred and a life had been lost or a person had been injured, the accident occurred in circumstances in which it was not practicable for the employer to take measures to prevent that accident occurring. How will a court deal with this issue? The Minister and the member for Eyre will be aware that judges and courts like to deal in many instances with absolutes. In this case the court must make a number of findings on the way to making a decision. The first finding is whether in every respect the employer had done whatever was practicable to prevent the injury or death. Unless the court can make that decision at the outset it will not be possible for it to take the next step of determining whether the employer was in breach.

This is an important issue because penalties are included in legislation to dissuade certain courses of action or, in this case, courses of inaction, and they can be effective only if they are capable of being enforced. If the language in the Bill makes it extraordinarily difficult or impossible for the court to enforce the provisions, it is just window dressing and has no effect at all. The penalty could be $1m or whatever. To what extent has that matter been examined by Parliamentary Counsel and to what extent do we have a clear understanding from the research carried out of the degree to which the courts are likely to interpret the provision?

We all know of the problems that plague Ministers when dealing with issues in which it appears something is not kosher, and where advice from Crown Law or elsewhere indicates that although they think it is a dubious area, the legislation does not provide the potential to prove this and is, therefore, deficient. The Minister is then in the invidious position of needing to either launch an action - with all the attendant costs and political ramifications of launching the action and perhaps losing it, and what that means to the industry at large - or deciding not to initiate the action because the Act is deficient. People then say it is a toothless tiger which will not operate in any effective way. I am interested in the Minister's comments on whether that degree of detail and application has been examined.

Mr C.J. BARNETT: I refer the member to page 9 of the Bill under the interpretation clause 4, on which there is a definition of "practicable". It draws attention to the severity of any potential injury or harm and the degree of risk of such injury or harm occurring as criteria; the state of knowledge of the people concerned about matters of risk and potential injury or harm to health; and the availability, suitability and cost of that state of knowledge. More significantly, clause 9 is an exact copy of section 19 of the Occupational Health, Safety and Welfare Act 1984. That Act has been the subject of numerous cases and interpretation within the courts, and there are precedents of interpretation and common law surrounding it. No problems have been encountered with this provision and it has been used successfully in the Occupational Health, Safety and Welfare Act. The decisions in those cases provide precedents.

Clause put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Duties of manufacturers etc. -

Mr GRILL: I move -

Page 22, after line 15 - To add the following -

(i) the maintenance of plant and equipment; and

I move the amendment in the spirit in which I moved the previous amendment. The Opposition believes the addition of these words would improve the Bill. We understand and commend the Government on endeavouring to present an all-embracing Bill. We commend the Government for the action taken some time ago to include designers, manufacturers, importers and suppliers within the ambit of the legislation and for continuing to do so. I understand this Bill is somewhat superior to the Occupational Health, Safety and Welfare Act in that respect. However, the question of maintenance arises and, although it may be implied that maintenance is included, that is not clear in the legislation. The meaning of a Bill such as this which must be used and interpreted by ordinary men in the field, should be absolutely clear. Maintenance should be mentioned specifically, particularly regarding plant and equipment. Members will recall an accident which occurred at Robe River Iron Associates involving a bucket wheel reclaimer. That accident occurred as a result of faulty maintenance. Unless proper manuals and instructions are issued for equipment, accidents are likely to happen.

Improper maintenance to equipment can endanger the health, safety and life of the person carrying out the maintenance. Numerous accidents have occurred in mining operations over the years to the person actually doing the maintenance because proper maintenance procedures were not adopted Also, of course, improper maintenance to plant and equipment represents a threat to the health, safety and life of the worker using the equipment. For those reasons the words "maintenance of plant and equipment" should be added to clause 14. We hope it meets favour with the Government.

Mr C.J. BARNETT: We support the spirit of the member's proposal that maintenance should be referred to in the legislation. However, we would prefer to accommodate that intent in a slightly different way. Part of the reason for this desire is that plant is taken as referring to plant and equipment in any case. Therefore, a reference to equipment is superfluous. Also, to place the wording in the provision he proposes would qualify some other provisions of the legislation. Therefore, I shall move an alternative amendment to the one moved by the member for Eyre, and this will achieve his purpose.

Mr GRILL: In that case, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr C.J. BARNETT: I move -

Page 22, line 22 - To delete the comma after "hazards" and insert the following -

; and

(iv) the proper maintenance of the plant,

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 15 to 20 put and passed.

Clause 21: Powers of inspectors -

Mr BROWN: Subclause (4) indicates that when a district, special, employee's or assistant inspector intends to inspect a mine under the powers conferred by this provision, the inspector must give notice of his intention. Two types of notice may be given. The first involves the inspector, before entering the mine site, speaking to someone in the administration office. That is a matter of courtesy and safety, which is appropriate for inspectors and anyone else for that matter.

The second type of notice involves a person writing or telephoning in advance and expressing the intention to inspect; the notice may be from one week to a year. To what extent are inspections conducted with and without notice? I do not refer to inspectors simply walking on site without telling anyone. I refer to the distinction between the inspector contacting management and informing of an inspection to be conducted two months later.

Mr C.J. Barnett: In which case everything is spick and span.

Mr BROWN: The lines are painted and other work is carried out in advance. Members who have worked in union offices know all about what happens on a work site when an inspector's visit is imminent. Nobody tells the employees, but suddenly the dust levels drop, yellow lines are painted, machinery is cleaned and grease is removed from the floor. Suddenly, a lot of time and money is spent cleaning up the workplace. Then a person in a white coat arrives and gives the site a large tick. Everyone is pleased and the person in the white coat disappears and the previous practices return.

When I occasionally wear another hat I have no problem with notice being given for inspections; it is eminently reasonable. It can have a salutary effect on management as it knows the site will be audited at some stage. This can have the effect of management dealing with some minor matters in a way to ensure that the site will receive a clean bill of health when the inspection occurs. It is important to have a mix of inspections with and without notice. These may involve short inspections in specific, or more general, parts of the operation. To what extent does the Government believe the differing inspections are carried out? It appears appropriate to have both types of inspection. Occupational health and safety should not be something which comes to the forefront of people's thinking only at times of inspection; it should reside there from day to day. Progressive companies have a management regime which keeps safety and health matters at the forefront of people's thinking. If one never knows the days upon which a man or woman will arrive in a white coat, that helps the process.

Mr C.J. BARNETT: I agree with the member for Morley that inspections should be conducted with and without notice. I am advised that the majority of inspections are conducted without notice. Of course, the inevitable happens in such cases: If an inspector is in the region and travelling down the Woodie Woodie Road, which is a four hour drive, the miracle of modern telephone communications means that the site will be informed of his visit; that is a practicality when dealing with remote areas.

It is also the case that, if there are major health and safety problems at a site, they are not the sorts of things that can be switched on and off and remedied. Increasingly as mining companies accept their responsibilities, those practices are becoming less apparent. The department advises me that what the member has referred to has been a problem, but it is diminishing. If the situation occurs and it is tarted up for the approval of the inspector, it should be drawn to the attention of the inspectorate within the department by the representatives on the occupational health and safety committees. It is their responsibility to perform that role.

Mr BROWN: A separate matter of concern relates to the visits of inspectors and the role of the occupational health and safety representatives. It can be dealt with under this

clause or later in the legislation. It is probably best to deal with it in part here. A provision in this Bill requires the occupational health and safety representatives to be notified when an inspector is to visit the mine. That is good, and we support it and believe it is a very positive provision. Neither this clause nor that relating to the role of the occupational health and safety representatives appears to contain a basic right for those representatives to accompany the inspector. It is not prohibited, but the right is not included. Given the role of the occupational health and safety representatives in the framework of this legislation and the Occupational Health, Safety and Welfare Act, that right should be included.

On occasions occupational health and safety representatives may wish to waive the right. An inspector may well come along and the representatives may say that they are more than happy for that person to carry out the inspection without their being present. However, there will be times when the occupational health and safety representatives would benefit from accompanying the inspector, and in my view they should be able to insist upon being able to accompany that person when that is required. I cannot see - I may be mistaken; if I am, I will be indebted if it could be pointed out - where that right is created. As I say, it is not prohibited; however, if the right is not included, some of the health and safety representatives will not feel confident about putting up their hands to go with the inspector.

It might appear in certain circumstances that the representatives either do not trust the inspector or do not trust that they will be reported to accurately after the inspection. Because of that - not that the representatives would be shrinking violets - they may be hesitant to insist on accompanying the inspector. If the right is created, it is the expectation that the occupational health and safety representatives can accompany the inspector who is reporting or can waive the right if they wish to do so in certain circumstances.

Mr C.J. BARNETT: The first point is that the health and safety representatives can do their own inspections independently. I am advised that, although it is not mandatory, the policy and practice of mine inspectors are to encourage actively the safety representatives to accompany them on the inspection. That tends to be done. It is also a policy that any reasonable request is addressed. I will stop short of creating some sort of right to do that. I cannot imagine the circumstances, but we probably need to maintain flexibility. The policy is to encourage inspectors to, in turn, encourage representatives to participate in the process. I would not want to make it proscriptive. What is being done is reasonable, and any reasonable request has been adhered to.

Mr BROWN: In many instances where occupational health and safety representatives wish to accompany the inspector of the company, the mine management is more than happy to accommodate that. With most reasonable employers there is not a problem. It does not really matter whether that provision is in the legislation because the management of the mine will agree any way. Those managers work on the basis of the occupational health and safety representatives being a valuable resource and they wish to involve them in the process. They have no difficulty with it and it does not require the sort of mandatory provision that I am talking about.

The difficulty comes with those companies that do not have that philosophy. In the mining industry, in particular, there can be different philosophies between even the major companies. I had the opportunity this week to attend the export awards. I heard a number of mining companies say that their policy was that their greatest resource was the employees and that they would make decisions that would assist and protect the employees. Equally I heard other mining companies say that all workers should come to work each day expecting to be sacked. There can be no greater contrast in two views; yet those two views came from two of the giants in the mining industry - one with a philosophy about caring for its staff and the other with a quite different philosophy altogether. I am not asking that a clause be created with an absolute requirement that health and safety representatives must do the inspection because it may simply be a waste of time; but rather that the Bill should provide the opportunity for them to accompany the inspector if they wish to do so.

If the Minister is not inclined to accept this suggestion today, I ask him to request the department to report to the Minister for Mines at some future time about the frequency of this sort of occurrence, more particularly, where companies do not have the practice of health and safety representatives being able to accompany inspectors. When that reporting comes in - it is not a huge matter, but a minimal one - and is added to the inspector's list to check whether a certain pattern emerges, we could then go back to the industry or introduce a provision into the legislation.

Mr C.J. BARNETT: The member will be aware that on page 28 of the Bill paragraph (i) requires the attendance of any inspector. If there was a difficult employee, the inspector could require that that employee, who would be the safety representative, accompany him. Paragraph (l) requires the employer or the manager or any person who works at a mine to give such assistance to the inspector as the inspector considers necessary, etc. The inspector has quite strong powers to require the employer to cooperate and to require any person he wishes to accompany him on the inspection. We would rather keep it to that than to have a mandatory provision. I note the points raised and I will ask the Minister for Mines to try to give me some information about those matters. We would prefer to keep some flexibility within this legislation. I cannot imagine the situation but if it becomes mandatory, the representative may not be on shift; he may be on a rostered day off or back in Perth if it is a fly in, fly out situation. The spirit of the provision is that the representative should be able to accompany, and the policy of the inspectorate is to encourage that.

Clause put and passed.

Clauses 22 to 24 put and passed.

Clause 25: Liaison between employee's inspectors and health and safety representatives -

Mr BROWN: Subclause (1) provides that an employee's inspector who performs any function with respect to health, safety and welfare matters at a mine must liaise with the health and safety representative and the health and safety committee. Why is that provision limited to the employee's inspector? Why does it not apply to other inspectors who may be dealing with health and safety matters that may occupy the attention of the health and safety representative and the health and safety committee?

Mr C.J. BARNETT: Under the amendment Act several years ago a provision was agreed to and it has been left in force because it seemed to be effective and to work. I am not sure of the entire logic but it came in at the time of the amendment to the Mines Regulation Act which brought in the DOHSWA principles. It was something agreed between the various parties at the time and it seemed to work. That is why it remains. I do not know the exact history.

Clause put and passed.

Clauses 26 to 29 put and passed.

Clause 30: Compliance with inspector's directions -

Mr BROWN: Clause 22 provides power to give directions, and under that clause action can be taken against the provisions of clause 30 which enable an inspector or an assistant inspector to give direction in writing to the principal employer or the manager of the mine in certain circumstances. This clause relates to where the Act is being breached or a hazardous situation exists.

Perhaps the Minister can seek advice regarding whether there has been any examination of the enforcement procedure under these provisions compared to the enforcement procedure under the Occupational Health, Safety and Welfare Act. I refer particularly to the power under that Act to issue prohibition notices. A prohibition notice under that Act provides that work must cease. A notice can be issued here, but a prohibition notice is where the inspector decides that work must cease. I am unable to detect whether the same type of notice can be issued and enforced in the same way as a prohibition notice. I note subclause (2)(b) but when one compares the two the practice is somewhat different.

Has that aspect been examined? A prohibition notice under the new occupational health and safety laws provides the opportunity to immediately stop work where it is hazardous to life and limb.

Mr C.J. BARNETT: Clause 22 provides power to make directions that work at a mine must stop. Under this clause, paragraph (a) provides that the principal employer or manager must cease to use the mine, or part of the mine. Perhaps that is in a different form, but the effect of a prohibition power is there and the inspector can force the cessation of mining operations. I am advised that action such as that will be made public in the annual report. That provides ultimately a comparison to what might happen under the Occupational Health, Safety and Welfare Act. It is expressed differently but the powers are provided to enforce the cessation of operations where it is warranted.

Clause put and passed.

Clause 31: Arbitration concerning direction -

Mr BROWN: The Occupational Health, Safety and Welfare Act provides that where there is a difference of opinion between the employer and an inspector where a notice has been issued, that matter will be referred in the first instance to the Commissioner of Occupational Health and Safety and then ultimately to the Industrial Relations Commission. This clause provides that where such a difference of opinion arises, an arbitration is to be conducted in accordance with the Commercial Arbitration Act. What is the distinction between the Industrial Relations Act and the Commercial Arbitration Act and why was the Commercial Arbitration Act chosen as the vehicle for resolving disputes? Secondly, what will be the apportionment of costs? Will each side be responsible for 50 per cent of the costs of the arbitration of the dispute or will all the costs be borne by the losing side? Under the Industrial Relations Act, the facilities of the Industrial Relations Commission are provided without charge to employers and enforcement agencies as a matter of government policy. However, the Commercial Arbitration Act envisages the appointment of arbitrators, and those arbitrators may have considerable expertise and obviously will not provide their services voluntarily and will have to be paid.

Mr C.J. BARNETT: The history is that over the past 11 years no such appeal has been made within the mining industry because matters have been able to be resolved, and it is believed that matters would not get to that situation. Under the Act, the inspector has ultimate authority; therefore, any appeal would be a case of an appeal from Caesar to Caesar. The advice of the draftsman was that if there was ever a need for an appeal, the Commercial Arbitration Act would provide a separate entity to which such an appeal could be made.

In regard to the difference between the Industrial Relations Act and the Commercial Arbitration Act, I am advised that the group which worked on the drafting of this legislation drew the conclusion that the industrial relations bodies were not properly equipped to deal with safety issues on appeal in the mining industry. That explanation may not satisfy the member for Morley and I will try to give him a more detailed account in writing of why it was decided to go down that path.

Mr BROWN: I thank the Minister for offering to provide that additional information. Another matter which I ask the Minister to examine is the capacity to find experts within the industry who can come to a commercial arbitration as totally disinterested parties. Many people within the mining industry have high levels of expertise, but they are all engaged by mining companies. There might be consultants whose expertise one could simply buy and who would then move on, but if there were not such people, one would have to question whether there was a capacity to buy independent expertise. The Minister and I both know that if two people who profess to have detailed knowledge of a particular subject are asked for an opinion, one person will give one view and the other person, who is equally eminent, will give a different view. The practice of the courts, whether in this area or in a range of other areas, is to try to sift through those conflicting views in order to find out which view is the more reliable. Commercial arbitration is a good system in many instances but it does require a measure of independence. To what

degree was that matter considered by those who drafted this Bill? The Minister does not have to respond to that now but I would be indebted if I could be provided with that information.

Mr C.J. BARNETT: The member for Morley previously raised the matter of costs. I am advised that under the commercial arbitration procedures, it is generally determined that costs be shared. In regard to expertise, subclause (4) makes it clear that a matter may be referred to a judge or a person with appropriate qualifications or expertise. I will provide, either direct or through the Minister for Mines, information about the operation of the commercial arbitration process.

Clause put and passed.

Clauses 32 to 47 put and passed.

Clause 48: Board of Examiners -

Mr BROWN: One of the functions of the Board of Examiners is to examine in accordance with the regulations the qualifications, experience and character of applicants for certificates of competency and issue such certificates where appropriate. I can understand the need to examine a person's qualifications and experience, but what matters which relate to an applicant's character will be taken into account in determining whether that person is issued with a certificate of competency?

Mr C.J. BARNETT: There would normally be a requirement that references be sought, perhaps from previous employers or other people, in order to determine the person's suitability. The board will also take into account whether the person has a criminal background or has had problems with bankruptcy. There will be a wide ranging character reference procedure.

Mr Brown: In order that it is not discriminatory, would it be limited solely to the person's background in regard to the particular job? As the Minister would know, in regard to a disability, for example, it would be wrong to disqualify people for a job simply because they had a disability. It would not be wrong to disqualify them from the job if they could not do the job because of their disability. It is a question of the character being related to the nature of the job and not to that person's general good or bad character.

Mr C.J. BARNETT: While I agree that the character related to the job is of prime importance, I am not of the view that other background character features should be ignored. I think that would be the view adopted by this Government and the previous Government in any appointments. It would not want to appoint a person who has the reputation in the mining industry of being a shyster. There is a responsibility on the Government in any appointment. It should not go over the top, but it must be conscious of the character and standing of the person.

Mr Brown: I agree with that, but this is about issuing certificates of competency.

Mr C.J. BARNETT: Yes, and I still hold to my position.

Clause put and passed.

Clauses 49 to 52 put and passed.

Clause 53: Functions of health and safety representatives -

Mr BROWN: This clause imposes a requirement on employers, employees and employees' inspectors to liaise with health and safety representatives. Why does this apply only to employees' inspectors and not inspectors at large?

Mr C.J. BARNETT: The clause does refer specifically to employees' inspectors. The point that goes right through the legislation is that anyone associated with the mine can contact or take an initiative to the inspector. This clause is reflecting the obligation in clause 25 and it is a point that was raised earlier.

Mr BROWN: Will the Minister raise that matter with his colleague in the other place? It will not make any difference to reasonable employees because they will do that anyway.

However, for the sake of a few employees we must avoid the silly argument that an employee can confer only with a particular person. We do not want the situation to arise that because a district inspector is present the occupational health and safety representative does not have the opportunities that would be given to him if he were an employees' inspector.

Mr C.J. Barnett: That is certainly not the intent of this clause.

Clause put and passed.

Clauses 54 and 55 put and passed.

Clause 56: Election of health and safety representatives -

Mr BROWN: Subclause (8) deals with the question of eligibility. Paragraph (c) provides that a person is not eligible unless he has at least 12 months' experience of a type described in paragraph (b) and such training, if any, as is agreed under clause 55. Clause 55 deals with the consultation on election notice. Is it a correct interpretation of clause 56(8)(c) that a person with at least 12 months' experience, but less than two years' experience, would not be eligible to be elected as a health and safety representative unless his employer and those persons nominated to negotiate with the employer as to the areas for occupational health and safety representatives, agreed that such persons would be eligible? If that is the intention of the clause, is there not a difficulty with it? The employer will have the capacity to prohibit an employee with more than 12 months' experience, but less than two years' experience, to become an occupational health and safety representative.

Mr C.J. BARNETT: This action is a provision which goes back to the 1990 amendment Act and it has worked satisfactorily. The intent of the clause is to make sure that people who are elected to these positions have the necessary experience. That is the motivation behind this clause; it is not a motivation to exclude people or provide a vehicle for an employer to target someone for exclusion. The advice from the department is that although problems of this nature are possible in theory, they have not arisen to date.

Clause put and passed.

Clauses 57 to 62 put and passed.

Clause 63: Functions of health and safety committees -

Mr TAYLOR: Where does the Government stand in relation to the issue of health and safety representatives? The Minister for Resources Development and the Minister for Mines made the following comment in their second reading speeches -

> No substantial problems have been evident in the 18 month period during which the legislation has been in place under the Mines Regulation Act, and in fact widespread informal application of these principles occurred in the industry in the two year period which elapsed between assent to and proclamation of the amendment Act.

The clauses in this part of the Bill mirror similar sections in the Occupational Health, Safety and Welfare Act. I debated this issue with the Minister for Labour Relations in this place the other night. Clearly he has a different view of this aspect of the legislation than that expressed by the Minister for Mines and the Minister for Resources Development a few weeks ago in their second reading speeches.

The Minister for Labour Relations indicated to members that he believed the legislation was only interim legislation and - even though the Minister for Resources Development said in his second reading speech that there are no problems with these issues - he also said that there were substantial problems. I ask the Minister whether we are dealing with interim legislation and, if that is the case, what sorts of changes do he and the Minister for Mines envisage? I want to find out whether the mining industry agrees with the suggestion of the Minister for Labour Relations that there needs to be substantial changes to the role of the safety committees and the health and safety representatives in the mining industry under this legislation.

Mr C.J. BARNETT: As far as the Minister for Mines and I are concerned this is not interim legislation; it is legislation for occupational health and safety matters in the mining industry. The Minister for Labour Relations has indicated his view that things might be done differently, but there has been no consultation with the mining industry on any alternative. The Minister for Mines would not envisage any changes to his legislation until such time as consultation occurred and presumably agreement was reached. Should the Minister for Labour Relations proceed with alternative legislation that affects safety committees in general, that should not be seen as affecting the mining industry, unless it decides to go along with that.

Mr TAYLOR: I entirely approve of the position taken by the Minister for Resources Development and the Minister for Mines, but if the Minister reads *Hansard* for Tuesday night he will find that the Minister for Labour Relations said clearly this was interim legislation and he would be coming back to the Chamber with proposed amendments that would change not only the Occupational Health, Safety and Welfare Act but also this legislation. I am not in a position to give the Minister advice, but once again the Minister for Labour Relations is on a union bashing exercise. Although he can do that in his own portfolio, it would be wrong if he could get away with it in other portfolios, particularly as this legislation has the approval of the industry, and the support, generally speaking, of unions involved in the industry. I am pleased to see that the two Ministers who have direct responsibility for the mining industry are prepared to stand up to the Minister for Labour Relations in his union bashing exercise.

Clause put and passed.

Clauses 64 to 68 put and passed.

Clause 69: Discrimination -

Mr BROWN: The Opposition supports this clause fully and we ask that this provision be reflected elsewhere in government policy, particularly in the Workplace Agreements Act which does not take into account discrimination against prospective employees by employers. We commend the Minister for this provision, but we would like to see it extended to some other Acts of the Government, so we can have a universal approach.

Clause put and passed.

Clause 70 put and passed.

Clause 71: Inspector may be notified where issue unresolved -

Mr BROWN: This clause sets out a mechanism to deal with unresolved issues where there is a risk of imminent and serious injury. Will the Minister enlighten us about injuries that do not involve matters of imminent and serious injury?

Mr C.J. BARNETT: This clause addresses issues where there is the danger of serious and imminent injury, so that injury does not occur. In cases where there is no immediate risk the thrust of the legislation is resolution through the safety committees and the inspectorate. It concerns the ongoing duty of care of the employer. The member for Morley is coming from the wrong direction. We are giving responsibilities and laying down procedures, and then dealing with a risk of serious and imminent injury, so if there is no risk of imminent injury the whole Bill will deal with that. It is not admitting something; it is identifying a problem that could arise and handling that. This same provision is contained in the DOHSWA Act.

Mr BROWN: I agree with what the Minister has said to the extent that there are processes for resolution in the use of health and safety representatives and committees. Has any consideration been given to those matters that prove, for the sake of a better word, unresolvable; that is, after all the conciliation processes have been gone through and it has been discussed for hours. In some other industries employers have complained that matters have gone onto the agenda and never been resolved. It might be a fault in the Occupational Health, Safety and Welfare Act too. We should be able to resolve those matters in a way that is satisfactory to all the parties.

Mr C.J. BARNETT: If it is a serious matter, it must be dealt with without delay. I am

advised that if an ongoing lower level problem has not been resolved, the department and its inspectorate will become involved as a matter of procedural policy.

Clause put and passed.

Clauses 72 to 74 put and passed.

Clause 75: Health surveillance of mine employees -

Mr GRILL: Mr Torlach was gracious enough to send up a copy of draft regulations for health surveillance of mine employees which set out a system of baseline medical testing every five years. Could the Opposition be involved in a process of dialogue and liaison with respect to these regulations? In industries which are particularly hazardous through the use of lead, zinc, mercury and silicon, etc we believe testing might be more frequent than every five years.

Mr C.J. BARNETT: I am sure the Minister for Mines would welcome any input from the member for Eyre in the way the regulations are formulated and in relation to the frequency of testing. I understand there are established national standards on the regularity of the testing. Guidelines are in place. The desire is to have the system work effectively, with the right period of testing and retesting.

Clause put and passed.

Clause 76: Notice of accident to be given -

Mr GRILL: I move -

Page 81, after line 27 - To add the following -

(5) For the purposes of this Division 2 -

(a) a serious accident will include any accident resulting in a fracture, dislocation or amputation; and

(b) "**ordinary occupation**" is the normal duties a person does and not the duties that a person does that are taken as part of a return to work program.

The Minister may have noticed that one of the themes which recurred in speeches made by Opposition members during the second reading debate was the way in which the information from the reports on accidents was compiled into statistics. We are all very proud of the fact that the industry seems to be going in the right direction in reducing injuries, fatalities and lost time accidents. However, a great deal of scepticism exists about the way in which statistics are compiled and reported. I emphasise the fact that the matters we have raised have been of an anecdotal nature and have been provided by a variety of sources - principally unions and workers. From my own knowledge, some of that anecdotal material is correct. Having said that, the figures provided by the Mines Department and the Department of Occupational, Health, Safety and Welfare must be credible and must be believed by the work force, the trade union movement and industry. As long as there is a credibility gap, they will not be believed. As a result, the reputation of our industry will suffer and some wrong decisions could be made. It will be a cause of continuing conflict in the industry as long as the guidelines are loose. The two amendments I have moved endeavour to tighten the reporting regulations to give the statistics a greater degree of credibility. In the final analysis, the allegations of fudging by mining companies must stop and this is one way of ensuring that that happens. The amendments are made in the same spirit to which I referred some time ago and in light of the anecdotal evidence given by a number of members during the second reading debate.

Mr C.J. BARNETT: Although I take note of what the member for Eyre said, the Government and the Minister for Mines do not accept this amendment. The intent is admirable, but it is considered by the people involved in drafting this legislation that, should there be an attempt such as this to define a serious accident as an accident resulting in fracture, dislocation or amputation it may be counterproductive. For example, to dislocate one's thumb may not constitute a serious accident. It is more than just a drafting issue. It is not wise to try to define the serious accidents; rather, let that

judgment be based on precedence and history. The accident reporting will be covered by comprehensive guidelines and they will be issued when the Act is proclaimed. It is hoped to proclaim the Act in January 1994.

I take the member's point that it is necessary that all affected parties have confidence in those regulations and they should reflect the spirit of the Act. I am also advised that amendments will be implemented in AXTAT - a statistical database maintained by the Department of Minerals and Energy to record mining injuries - to deal with anomalous situations. Where problems occur it is intended the regulations and amendments to that recording system will correct them.

Mr Grill: I accept that.

Amendment put and negatived.

Clause put and passed.

Clauses 77 to 92 put and passed.

Clause 93: Codes of Practice -

Mr GRILL: I move -

> Page 93, line 29 - To insert after "reference," the words "to be circulated to interested parties for comment and".

That is a straightforward amendment and is caught up in the clause dealing with codes of practice. We feel it should be spelt out clearly that codes of practice should be not only made available but also circulated to all the relevant interested parties for comment prior to and at the time of their implementation. I cannot vouch for the drafting, but we believe the sentiments should be accepted by the Government.

Mr C.J. BARNETT: I am advised that the provision is identical to that in the Occupational Health, Safety and Welfare Act. I am also advised that at this point we are effectively at the end of the process. Circulation and consultation takes place until the code is finalised. At that stage I understand that those who need to know do know. The process is correct.

Amendment put and negatived.

Clause put and passed.

Clauses 94 to 110 put and passed.

Schedule 1 -

Mr C.J. BARNETT: I move -

> Page 112, line 36 - To delete "and".
>
> Page 112, line 42 - To delete the fullstop and substitute "; and".
>
> Page 112, after line 42 - To insert the following -
>
> (g) a third class certificate of competency issued under the *Coal Mines Regulation Act 1946* may be regarded and accepted in all respects as if it were an underground supervisor's certificate of competency issued under this Act.

Amendments put and passed.

Schedule, as amended, put and passed.

Schedule 2 -

Dr WATSON: Regarding the proposed amendments to the Coroners Act I refer to the case of a family who has been severely affected by the way their son's inquest was conducted through the Coroner's Court. I would like an explanation of why there needs to be a section in the Coroners Act addressed to deaths occurring at minesites. Why are we distinguishing these sorts of deaths from any other deaths; for example, from those in a train collision or another workplace?

Again, I raise the issue related to Phillip Gausten. On 5 November 1992 Phillip Gausten met with an accident at his workplace when a piece of hot metal fell into one of his ears. He had some ear damage secondary to that hot slag. It was subsequently found after his death that no report of that injury was recorded in the accident book on site; neither was any kind of doctor's report available with the Royal Flying Doctor Service, one of whose staff examined Phillip after this accident.

The DEPUTY CHAIRMAN (Mr Johnson): Order! I am having trouble hearing the member for Kenwick, who has a very soft voice anyway. There is conversation on both sides of the Chamber. I ask members to keep their voices to an absolute minimum while the member for Kenwick is on her feet.

Dr WATSON: Phillip then went on leave. As I said the other evening, he returned to the minesite two days before he was killed. He worked 29 hours in that two days. His parents had to pursue a coroner's inquest themselves. Mrs Gausten said to the union secretary that after she got her strength back she wrote to the coroner and the Attorney General. Within two weeks she got what the solicitor said could not happen - an inquest. She said that for the cost of two stamps she got an inquest. The solicitors had said that the charges for trying to get one would be about $1 700. Is that the usual practice?

I am raising questions to which the Minister may not be able to give me answers today. They are serious questions relating to health and safety on minesites, particularly in relation to the consequential amendments to the Coroners Act. The Gaustens want me to raise these questions because they do not want their grief and sorrow to have been wasted in the end. They hope to be able to prevent these kinds of experiences for families in a similar position.

Apparently it is up to the police to identify the bodies of people who are killed on minesites, and the parents said that they were denied the right of identifying Phillip's body following his death in November 1992. One of the biggest issues of concern to them, and to the doctor who conducted the autopsy, was that no information was given to them about the fact that Phillip had this injury to his ear. The pathologist did not examine his ear because he did not have that pre-existing knowledge. The coroner assumed responsibility for the inquiry into the death of Phillip Gausten on 7 September 1993, about 10 months after the death. Witnesses were asked to give evidence as to Phillip's state of hearing immediately before the accident that killed him. Of course, the Gaustens have concerns that no statements were taken at the time and that people were meant to be able to provide that kind of information 10 months later. As I said, no record of this injury had been made anywhere. The coroner made inquiries with the Royal Flying Doctor Service and established that the doctor who had signed a certificate had since gone to another State. The whereabouts of that doctor was not traced before the inquest started.

One of the other concerns about the way in which this inquest was conducted was that the parents were told that a report made by the Department of Minerals and Energy could be made available to them for a cost of $116 and that all other documents which were tendered as exhibits at the inquest would be made available at a charge of $1 a page. I recognise that this might not be under the direct jurisdiction of the Department of Minerals and Energy, but I thought there would be some concern that this is how this matter ended up. I am raising this particular case because I understand that most people find this process most unsatisfactory. Rather than having questions answered that might resolve their grief, people are left with a number of unsatisfactory experiences that compound their grief. There should be no difference between the kinds of investigations that are done on deaths in other workplaces - on the road or on construction sites - or any sudden death. I do not understand why special provisions must be made, particularly when they are as unsatisfactory as this provision has been for this family.

Mr C.J. BARNETT: I am not aware of the case to which the member for Kenwick has referred. Effectively all we are doing with this schedule is removing a redundant provision of the Coroners Act which relates to coalmining. The member has raised matters relating to the operation of the Coroners Act and the role of the coroner. As she

appreciates, they are matters for the coroner; indeed, the legislation is a matter for the Attorney General. Most of the points she raised relate to the Coroners Act rather than this piece of mining legislation. However, if the member wishes, I will undertake to provide to her some background information on the relationship between the mining legislation and the Coroners Act. My understanding from a mines point of view is fairly ambivalent. The matters raised by the member could be taken up under the coroners legislation. The mining legislation is just fitting in with what exists.

Dr WATSON: Why does there need to be a provision in the Coroners Act to deal with deaths in mines?

Mr C.J. BARNETT: I cannot answer that. It is a matter of historic fact that the provisions are there; therefore, we are required to make this amendment. That is a matter to assess in the context of the Coroners Act. We are simply complying with that.

Schedule put and passed.

Title put and passed.

Bill reported, with amendments.

MINING AMENDMENT BILL

Second Reading

Resumed from 29 September.

MR GRILL (Eyre) [12.40 pm]: By and large we support the legislation. However, we will oppose some aspects of it. We are not happy with a general trend in the legislation which we want to draw to the attention of the Minister for Resources Development and the Minister for Mines. We hope that trend will not continue in the future. I refer to the trend towards making this piece of legislation a Bill for big mining companies and big business. I can remember the days of 1978 when this piece of legislation first came before the Legislative Assembly. It did not have a very happy passage through this House and it did not have a very quick or happy passage through the upper House. It was principally opposed on the basis that it would force the small prospector and small mining exploration company out of business. There were demonstrations, big parades and marches up St Georges Terrace which culminated in speeches and demonstrations.

Mr C.J. Barnett: When was this?

Mr GRILL: This was 1978, when the legislation first came before this House. Those demonstrations, marches and concerns were all about the position of the prospector and the small exploration company under the 1978 legislation. Most of the amendments before us today simply go towards making the legislation more effective and more efficient. They will bring the Act up to date, and we certainly commend the Government in that respect. The Bill will improve the administration of the Act in a number of respects, streamline the procedures of the Warden's Court and generally ensure that the Act better serves the mining industry.

However one clause, which I will deal with in more detail later but I thought it was better to signal it at the beginning of my speech, deals with exploration licences and their extension for two possibly successive periods of two years. We believe in that respect the legislation goes too far and that in conjunction with some other aspects of the Act it will do the very thing feared back in 1978; that is, it will squeeze out the prospector and the small mining company because there will be no access to land. In the eastern goldfields and most parts of the mining districts of Western Australia they refer to it as the "dirt". Without access to the dirt one cannot explore or find a mine. The term "dirt" is very basic; nevertheless it is the term used. Many prospectors these days indicate that they have huge problems getting access to land, or dirt, and this Bill I am afraid will exacerbate that situation.

The amendments before us contain some 63 clauses, which is a fairly extensive piece of amending legislation. The Act was reprinted last on 1 August 1988. There have been

changes to the legislation since that time, principally in 1990 and 1993. Given the extensive nature of those amendments, we feel that it is probably time for this Act to be reprinted. I do not know whether it is a big process, but it is a very much used piece of legislation.

Mr C.J. Barnett: Are you saying there should be a reworking of the whole Mining Act?

Mr GRILL: No, I think there should be consolidation and reprinting of the legislation already enacted, including this Bill. I have indicated this is a fairly extensive set of amendments with some 63 clauses. Having said that I would not expect the Government to rush out to consolidate and reprint the Bill tomorrow, mainly because we have the High Court Mabo case hanging over our heads. The decision in that case may well result in further amendments to the legislation being required. I cannot foretell what they will be; maybe there will be no amendments. When the matter was discussed in the other place there seemed to be a uniform view that the Mabo decision might ultimately lead to some amendments not just to the Land Act but also the Mining Act.

Mr Leahy: It may be the Act could be put in a loose leaf format where you can have an amended section and then bring in another one.

Mr GRILL: To deal with some of the provisions of these amendments, I indicate that this Opposition supports the move towards clearer and more specific reporting conditions for exploration tenements. Geological information is absolutely essential for exploration and mining in this State, and the continuous flow of that information is certainly a big aid to the industry. One finds with geological information, and ultimately with mines, that there is a process of interpretation and reinterpretation. Layer upon layer of information comes forward, and ultimately with interpretation and reinterpretation one finds a mine.

Mr C.J. Barnett: And the theories change.

Mr GRILL: That is exactly right. I can see the Minister has been picking up on his metalliferous mining information.

Mr C.J. Barnett: I studied geology as part of my degree, so I am a frustrated geologist.

Mr GRILL: A very good recent example of this is Kanowna Bell, which is about 15 or 20 kilometres out of Kalgoorlie and which was a big mining area at the turn of the century. In fact it contained about 15 000 or 20 000 people. It continued until the 1950s and by 1969 it had disappeared. It was a very big mining community for a number of decades, beginning in 1890. There was nothing left by the early 1990s, and yet with the reinterpretation of the geological information and further exploration and drilling a very big deposit has been found at Kanowna Bell. I think the Minister attended the reopening.

Mr C.J. Barnett: I did not.

Mr GRILL: The Minister did not? Certainly, the Premier did just a few months ago. That flow of geological information is absolutely essential and, to the extent that legislation enhances that flow, we agree with it.

We also agree that the requirement for the geologists and the owners of the tenements to send in one report for a group of tenements rather than having to put in separate reports for every tenement is a step forward. We believe also that a substantial fine for breaches of the reporting requirements is another arrow in the quiver of the authorities and we welcome that.

This legislation includes a new procedure for receipt of mining tenement applications where there are multiple applications. Once again, that is welcome. We had a celebrated case in the Yandal belt in the north eastern goldfields where a number of well known prospectors turned up at the Leonora registrar's office early one morning before it opened and put in applications for a large part of the Yandal belt in opposition to each other. The mining warden was not clear about what he should do with the applications. He made decisions in favour of a ballot. As far as he could see, all of the applications were received simultaneously. Because there were no provisions in the Mining Act to resolve such a situation, the prospectors, some quite well known, including Mark Creasey, Neil Johnson, Lief Beale and others, decided they would take the matter to the Supreme

Court. That has been a very long and a very well publicised process. There was further media speculation on the matter yesterday and a decision by the Supreme Court is imminent, I understand. It has been a long and costly process. There has been a lot of speculation in the market during that period. Some fortunes have been lost and gained on the basis of people's assessment of who might win the Supreme Court action. It is an intriguing situation but not a very helpful one. To the extent that this Bill endeavours to overcome that, we agree with it.

We understand the new procedure will be that, where applicants arrive at the registrar's office early in the morning, all applications will be put in a tray and that operative times will be set under this legislation for various applications, depending on whether the application is for released ground or forfeited ground. The operative time for released ground will be 8.30 am and for forfeited ground it will be 3.30 pm. All of the applications will be taken by the registrar and treated as though they were received simultaneously at those times that I have just mentioned depending on whether they are for released ground or forfeited ground. When the matter then comes before the warden, those simultaneous applications can be resolved on the basis of agreement between the parties. I believe that there will be a fair deal of agreement between the parties when simultaneous applications are received because it will be in the interests of the parties to do so in most cases. The first option of settling the matter by agreement is a good one. However, ultimately, the final option of a ballot will be the only fair and proper way in which these matters can be resolved. Certainly, it is a far less expensive and much quicker way and it is also a more certain way. We support that amendment.

The amendment relating to aerial surveys is also sensible. There has been some conjecture about whether aerial surveys, the flying over of the tenements and surveying them and taking aeromagnetic and other data from the tenements, amounts to a trespass. There was a very celebrated case in Queensland, called the Ernest Henry case, involving the Western Mining Corporation Ltd and Hunter Resources Ltd in which Western Mining ended up forfeiting some very valuable tenements - some commentators have indicated they were worth something over $1b - because it was admitted in the court during a contested application that the personnel of Western Mining Corporation had trespassed on the tenements and had taken certain information about geological formations on those tenements and had not conveyed that information to the joint venture partners or the persons from whom it had the options to acquire the tenements. That was a huge loss for Western Mining Corporation, not that it is not used to that.

Mr C.J. Barnett: Where were those tenements?

Mr GRILL: The Ernest Henry tenements are in central Queensland. The amendment to which I am referring endeavours to set the situation absolutely straight and clear in Western Australia so that there can be no question about whether flights over tenements and the obtaining of aeromagnetic information amount to a trespass. A couple of years ago it was asserted by a Minister that flying over mining tenements and taking aeromagnetic readings was interfering with Aboriginal heritage and culture and with Aboriginal sites. Frankly, I think that was going a little too far. However, far be it from me to be critical of my colleagues. I imagine that this amendment clarifies that situation also.

The amendment to allow the warden to deal only with disputed matters and to allow matters which are not in dispute to be disposed of by the registrar is something that we embrace. We believe it is sensible and will streamline the operation of the legislation and speed up exploration in this State. At the end of the day, that is what we are aiming to do.

A lot of applications for tenements in the future which would normally go before a warden will be handled administratively instead of in open court. There will be provisions to deal with late objections. There is always a fair degree of flexibility in wardens' courts when dealing with late objections. It is not like the Supreme Court, where one might cut one's throat if one lodged an objection a day late. The wardens' courts have always been a bit more rough and ready and that has been a good thing because late objections have been accepted.

Mr Prince: Some have.

Mr GRILL: Yes. We endorse that.

We also endorse the possible shortened periods of special prospecting licences. It is contemplated that under this new legislation, special prospecting licences will be granted after negotiations between the principal tenement holder and the applicant for a shorter period than four years. We do not think there is anything wrong with that and we go along with it. However, we remind the Minister that when this matter came up last year, we indicated to him that we did not think that these special prospecting areas on mining leases would be successful. Obviously, they have not been successful. Quite frankly, we have to say that we do not believe that these special prospecting licences, even in their amended form on mining leases, will be successful. The hopes of the Amalgamated Prospectors and Leaseholders Association in that respect will be dashed once again. In some respects, I believe that the association has been just a little too optimistic and perhaps a little naive in expecting that the principal tenement holders will agree to tenements being granted on their properties for alluvial and near surface mineralisation.

The area about which we have a real argument with the Government is the extension of the period of exploration licences for a further four years. We will oppose that in the Committee stage.

Opposition members support the clarification of the specific rights under miners' rights. It is the first time that has ever been done, and we certainly welcome it. We realise it is done for environmental purposes; nonetheless, we support it and regard it as a step forward. We also strongly support the amendment to section 29 which will allow private land within a mining tenement, when it ceases to be private land and reverts to the Crown, to automatically become part of the tenement. Generally speaking, the Opposition supports the Bill except in the area already indicated.

Sitting suspended from 1.01 to 2.00 pm

[Questions without notice taken.]

MR TAYLOR (Kalgoorlie) [2.38 pm]: As I indicated at the outset, the shadow Minister for Resources, the member for Eyre, is currently otherwise engaged. The member does want to speak on this legislation if at all possible, as does the member for Northern Rivers who wishes to move a few amendments. The Minister may be sufficiently generous to enable that to take place. I do not know whether they will be back in the House before I finish my remarks.

Mr C.J. Barnett: With respect, the debate is continuing. They can speak during Committee.

Mr TAYLOR: They realise that, but they are in a meeting which they cannot get out of.

Mr C.J. Barnett: I cannot run your side of the House.

Mr TAYLOR: I am not asking the Minister to run our side.

Mr C.J. Barnett: The member for Eyre has already spoken and has concluded his speech.

Mr TAYLOR: The member for Northern Rivers wants to speak.

Mr C.J. Barnett: He should be here.

Mr TAYLOR: I am asking for the Minister's cooperation; I am not telling him what to do. In his usual fashion, the Minister cannot help his arrogance concerning the way he runs this House.

Mr C.J. Barnett: I expect people to continue a debate and not want barleys time to go off and play.

Mr TAYLOR: The Minister is just an arrogant little sod. I pointed out to him before -

Withdrawal of Remark

The SPEAKER: Order! I will not accept that expression and I direct the member for Kalgoorlie to withdraw it.

Mr TAYLOR: I withdraw.

Debate Resumed

Mr TAYLOR: There are some aspects of this Bill that cause concern. However, most of the provisions in the Bill make sense in relation to the future of the mining industry in Western Australia. The clauses that ensure the recording of extra information for the mining industry so that that people have access to data are important. I am pleased that the technical exploration information included in the geological database is part of a public file when the mining tenement expires. The information is of vital importance to the industry. It is important to ensure data is submitted, as the Bill provides, for all the exploration phases rather than just bits and pieces. It is significant that penalties of fines or forfeiture are provided for breach of the reporting requirements. All too often those involved in the industry do not treat seriously enough those sorts of reporting requirements. When people hold exploration tenements it is essential that if they do not have any further use for the tenements, they provide that information to the public database so that others, whether in five or 25 years' time, are able to ensure that they have access to that information.

It is common practice for mining companies to obtain as much geological data as possible. These days they are usually able to do that by aerial surveys. The companies involved in aerial surveys have certainly made the point that where possible they provide that information to their employers. More importantly, over the past decade or so we have seen a significant growth in the activities of aerial companies in Western Australia. It is one of the most important ways of obtaining geological information at a reasonable price in comparison with many other exploration techniques. With the way the information gathered by aerial surveys is able to be assessed these days, it is critical that we give full freedom to aerial surveys. This legislation recognises that surveys take place over very large tracts of land, and certainly tenements held by third parties may be over-flown by aerial surveys. People in the industry have expressed concern, given the nature of litigation these days, that over-flying somebody else's tenements may constitute some sort of trespass. This Bill provides for an essential part of mineral exploration - the aerial surveys themselves. It provides that those gathering the data from the surveys are not restricted or prevented from over-flying other tenements and collecting information. It is important for the future of the industry and a sensible precaution in the mining legislation of Western Australia. I approve of this provision; it enshrines in legislation what happens already.

A major concern with this Bill, and the subject of submissions to the department from the mining industry, is that the initial five year term for an exploration licence, as provided in section 61 of the Act, in some cases is inadequate because an extension is permitted only in exceptional circumstances. Licence holders are forced at the end of their mining terms to convert to a mining lease title when exploration is still being carried out. That has occurred on a number of occasions, but I acknowledge that it is probably more unusual than usual. The legislation's response is to install a provision to allow for two extensions of the term of an exploration licence, each for a period of up to two years. Certain criteria will be set down in the regulations to allow the extension of the term of the licence. They are detailed very briefly in the second reading speech. The Opposition is concerned that providing an extension for an exploration licence, which is effectively for four years, will continue to tie up significant areas of land in Western Australia - land that is not necessarily being explored to the full. In addition, the companies will be able to hold on to the same areas of land after what would have been the expiration of the five year period. Normally, the companies drop off certain areas of a tenement as they move into more intense exploration phases as they target some particular geological anomaly. Our concern therefore is that with a four year extension land will not be dropped off at all and we will see large areas of land in Western Australia being tied up by exploration licence holders, effectively locking other people out of those exploration areas. That is not in the interests of exploration or the resources industry in Western Australia.

I have no doubt that the proposed amendment to the Act will ensure that some of the bigger companies will benefit from this provision. That is where the pressure has come

from. The Government has overlooked the potential for large areas of land to be tied up in the process of putting this legislation together. It should have installed in the Bill provisions to ensure that certain areas were dropped off as the four years move forward rather than just leave things as they are. The consequences for exploration will be large areas of land tied up by the larger companies and an insufficient exploration effort in those areas of land. If we have the opportunity to debate the matter the member for Northern Rivers will seek to move an amendment to this aspect of the legislation to cover that problem. Whether we will be able to do that will depend on the goodwill, or the normal lack of it, of the Minister handling the legislation.

The Amalgamated Prospectors and Leaseholders Association submitted that the present fixed term was causing some problems in relation to the tenements that could be granted to them as special prospecting licences. Prospectors in many instances were seeking a short-term title over a limited area of ground to treat alluvial gold. According to the second reading speech, making the terms of a special prospecting licence more flexible will encourage the holders of underlying mining tenements to agree to a special prospecting licence being issued. That has not been the case. More often than not we have found that people holding mining tenements are not prepared to allow special prospecting licences to be issued; they treat prospectors as the enemy on their tenements and not as people who can be supportive and of some assistance to them in providing a better knowledge of the tenements over which they have a hold. Even though the APLA has submitted the idea of a fixed term for these tenements, the prospectors will not be much better off; they must still apply to the bigger companies in order to gain some benefit for themselves under the tenements. For the industry in general there is no doubt that the power lies with the bigger companies, and certainly with the Chamber of Mines and Energy, and very little power lies with the prospectors in Western Australia. They will have to put up with what they have, and it will not make life any easier for them.

I am sure you will be aware, Mr Speaker, if you look at the mining industry in Western Australia even today, that some of the major finds made in this State in goldmining and in other mineral areas are being made by prospectors who get out there day after day to do the hard work associated with exploration in this State. Those people are still on the receiving end rather than in a position in which they have some real influence and power in terms of tenement holdings in Western Australia. This is a proposal to make life a little better for them, but it does not deal with the underlying problem of true access and the holding of special prospecting leases on the larger tenements. The general attitude of the holders of larger tenements is that prospectors are too much trouble, and they do not want them to mine on their tenements.

Generally speaking, this legislation is regarded by the Opposition as fair and reasonable. However, the Opposition has very serious concern about exploration tenements and the provision to extend the licences for a further four years. As a consequence of that proposal, further exploration in Western Australia will be held up and more large areas will be held under these tenements on which insufficient work is being carried out. That problem has dogged the mining industry for a long time, and it will not be resolved by the provisions of this Bill.

MR C.J. BARNETT (Cottesloe - Minister for Resources Development) [2.54 pm]: I thank the members for Eyre and Kalgoorlie for their comments on the legislation. It represents a substantial amendment to the Mining Act, and I am pleased all members support its major thrust. In particular, as detailed in the second reading speech, the Bill tidies up and improves many of the provisions in the Act, and addresses problems that have occurred with the advent of new technology, particularly aerial surveying and exploration techniques.

I thank members for their support for the better reporting procedures and the method of handling difficult situations and multiple applications for tenements. Aerial surveys are a modern issue that must be addressed in the passage of time. Streamlining administrative positions so that the warden must deal only with matters is dispute is desirable. Although there is some disagreement about alluvial gold, I note that members opposite do not agree with the right of a 2 x 2 year extension of tenement leases, as they consider it will limit

the opportunities for prospectors for alluvial gold. I understand their argument, but we shall see whether that is valid with the passage of time.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mr Day) in the Chair; Mr C.J. Barnett (Minister for Resources Development) in charge of the Bill.

Clause 1: Short title -

Mr TAYLOR: I make the following point, which I have made previously about legislation in this Chamber. In this case members received a briefing paper on the Bill, which has been quite helpful in understanding the nature of the provisions and the reasons for them. Also the Minister gave a second reading speech which was somewhat less helpful than the briefing paper. Mining bills are very important to Western Australia, and a great deal of litigation surrounds the mining activities in this State. Therefore, the wording of the Bills and the comments in the second reading debate are important when assessments are made on the legislation. This Bill has 52 clauses and, despite the importance of the subject matter, no part by part explanation was given of the exact nature of the legislation. That information should be before members so that they have a better understanding of the significance of each clause. It would also assist the Minister when dealing with the legislation in this Chamber. I am sure it would present no problem for Parliamentary Counsel, when drawing up the legislation, to make sure briefing papers were supplied giving detailed explanations for each clause.

I refer to a point made by my colleague in the upper House Hon Mark Nevill, that the Mining Act in Western Australia has become too complicated because of the number of amendments to be incorporated into the principal Act. This creates a great deal of confusion. The principal legislation was enacted in 1978 and amended in 1990, and is now being significantly amended in 1994. Those who are involved in the industry on a day to day basis, including mining companies and lawyers, may have no difficulty understanding the legislation but those who are not familiar with the legislation find it most confusing when they need to refer to it, because it has not been properly updated.

Mr C.J. BARNETT: I agree that it is time the Mining Act was reprinted, and I will convey that to the Minister for Mines. It is a very important and much used piece of legislation and, of all the legislation in this State, this is the one we should make as easy to use as possible. I understand that briefings were given by the department to some members opposite, and I hope their queries were answered during those briefings.

Mr Taylor: Not everyone can get to the briefings.

Clause put and passed.

Clauses 2 to 16 put and passed.

Clause 17: Section 61 amended -

Mr GRILL: In the second reading debate I indicated that the Opposition had considerable concern about this clause. I do not know whether those concerns will be met by the Minister at this point, but I will outline them. The Opposition will consider the response from the Minister and, in the light of that response, will make a decision on whether to oppose the clause.

During the second reading debate I said that in 1978, when the initial Act was passed - it was then called the new mining Act - considerable concern was expressed by prospectors, small leaseholders and small exploration companies that the new Bill would be one which would ultimately exclude them. There was a lot of tumult about the Bill, large demonstrations and marches up St Georges Terrace; many people came down from the eastern goldfields. At that time they said that they felt as though they were being excluded. The Bill ultimately went through with some guarantees from the then coalition Government that those people would not be excluded, sufficient tenements would be

available to sustain the whole prospecting fraternity within the Western Australian community and the small exploration companies would not be forced out.

The way in which this legislation has developed since then has led me to believe - as do a lot of others - that the fears that were expressed in 1978 might well come true and that the small prospector simply will not be able to get on to any suitable ground. There is not that much vacant Crown land for tenements in the eastern goldfields, which are not that much different from any others in Australia. Now people and companies wait around until such time as prospective areas of land are dropped off or forfeited. Very little land is forfeited. From time to time land is dropped off under the provisions of the legislation, especially those in relation to exploration licences. As soon as that land is dropped off it is normally taken up by another company or individual. Nonetheless, consistent complaints continue to come in from prospectors that they are simply unable to take up tenements.

We have real doubts about extending exploration licences in this way. The extension almost doubles the life of the licences from five years to anything up to nine years. I understand that in exceptional circumstances there can be a further extension beyond that, although I stand to be corrected. These tenements can be huge. The big mining companies in these tenement regimes usually take out the maximum size tenements, which I understand is 200 square kilometres. That is a lot of land and big mining companies might take out 10, or even 20, such tenements at one time. They can afford to do that but the small fellows cannot. They can afford to pay the exploration expenses for those tenements so that they can be retained.

Since 1978 the big mining companies have shown a propensity to take up huge areas of land and a large number of exploration licences, and have been able to sustain large expenditure on those licences. Other explorers are being precluded and the small prospectors and, from the anecdotal material I have received, small mining companies are being forced out. It appears that exploration licences are valid for five years. There is compulsory relinquishment of parts of those tenements after three years and after four years. After three years a company has to drop off compulsorily 50 per cent of the land and after four years it is then required to drop off another 50 per cent. A 200 square kilometre tenement would go down at three years to 100 square km and after year four, to 50 square km. Having gone down to that size, if the further two options for two years is exercised, that tenement would remain at that size - that is, 50 square km - for another four years when there would be a final drop off. That would appear to be inequitable and unfair and would tie up this country for a further period and would simply exacerbate the situation so that small prospectors could be excluded.

We can tie that into the advent of the retention licences in the legislation last year where exploration companies in exploring tenements find an ore body which proves not to be viable. They can then hold on to that ore body for a long time, by way of a retention licence, paying fees for it which are substantially less than would be paid for a mining lease. The two things work together creating a situation where there is not much left over for anybody else.

These two additional periods of two years can be exercised in circumstances which are not unexceptional. The conditions are that the expenditure requirements have been complied with, and we would expect that; that a satisfactory exploration has been taken on these tenements within the required time, and that is reasonable; and that further exploration would be justified. I suppose the mining companies would not apply for the extra periods unless the exploration was justified.

Nonetheless, we find those mining companies concentrating their exploration in a small area of a tenement and large parts of the tenement are left vacant and unexplored. It would have been preferable for those unexplored areas to be dropped off, or for the mining company to take out mining leases for the area they want to continue to explore and others would have the opportunity of exploring the relinquished areas. I know the Government will argue that to obtain the additional extension periods of two years in each case, additional amounts of money will have to be paid. That is true. The

additional amounts of money for each of the three years goes from $20 000 to $50 000 and continues up to $100 000 to the end of year nine. Big exploration companies can pay those large sums of money. As I said yesterday in debate on another matter, we have some very big exploration companies in Australia. In fact, some of the biggest exploration companies in the world are resident within our boundaries. The legislation is heading towards the worst fears expressed in 1978; that is, it has become and is becoming entrenched as a big companies Act. For those reasons I hope the Minister will reconsider this provision.

I know the Minister will also probably argue, once again correctly, that the Amalgamated Prospectors and Leaseholders Association has been involved in the consultation process and as it has been involved in the liaison process, it has probably either directly or impliedly agreed to the extension period of these exploration licences. I do not know what consultation process took place. I do not know to what extent the Amalgamated Prospectors and Leaseholders Association has the expertise to make those sorts of judgments. They were certainly sold a pup in relation to retention licences. They saw the trade-off in respect of retention licences as being special prospectors licences for mining leases. We said last year when these new tenements were introduced that they would not work. It seems fairly clear from the Minister's second reading speech that those tenements have not worked, because had they worked there would not have been a move to amend them in this legislation. It appears to me - I do not want to criticise them too much - that the prospectors were sold a pup. They did not negotiate particularly effectively about this matter; they were wrong to regard special prospecting leases as some sort of trade off for retention leases; and they are being excluded.

It is not good enough to say that prospectors are not an important group. There is ample evidence in recent history that they are still an important group. Much of the mining activity that has taken place in the eastern goldfields is a direct result of their work. The Yandal belt, a large new goldmining area in Western Australia which was not regarded as being particularly prospective because the greenstone formation was covered with a lot of sand and overburdens. It had not been effectively explored until recently. It was made prospective as a result of the efforts of a well known lone prospector, Mark Creasy. Before he went there, mining companies generally had not been interested in that area, and even then it was a junior mining company that went in - I think Great Central Mines - and not one of the big mining companies. No doubt the big mining companies are in there now and will buy out the smaller companies, but it was this lone prospector who opened up that area. There is a strong belief that the Newcrest mine at Telfer, about which there is some controversy, was found as a result of the efforts of another lone prospector, a Frenchman. He did not get much out of it in the final analysis. I think he got a small payment from Newcrest's New York office, but he did not receive any acclaim and he certainly did not receive the reward that should have come to him in Western Australia or Australia, and I know he is a bitter man as a result. Prospectors have their place. They are still doing magnificent work in the various gold fields and mineral fields of Western Australia. It is a pity that this Act is tending to go in this direction.

Mr LEAHY: I compliment the Department of Minerals and Energy and the Minister for their work in streamlining this legislation and thereby making improvements. However, I share the concerns of the member for Eyre about the extensions for exploration licences, particularly because there is no provision for surrender or relinquishment of part of an exploration licence in years other than years 3 and 4. Under the previous legislation, there had to be a 50 per cent reduction or relinquishment of land in year 3, which would take it from the maximum amount of 200 square kilometres to 100 square km, and after year 4 there had to be a reduction to a maximum of 50 square km. We are effectively now giving some of the biggest exploration companies in the world an additional five years when they do not have to relinquish any of that 50 square km.

I was a mining registrar for a number of years, and I know that in the normal course of events, a group of exploration licences is lodged at one time. Some companies take 10 or 20 separate exploration licences in a particular area and tie up a couple of thousand

square km of dirt. We have now an extension of that to enable a quarter of that initial tied up land to be retained for up to nine years. It is going part of the way to increase the expenditure and say that a company needs to expend $50 000 a year in years 6 and 7 and $100 000 a year in years 8 and 9, but that may be a piddling amount when we consider the size of some of these companies and it can be concentrated on a very small part of the land that comprises that exploration licence. In fact, a mining company can now tie up 50 square km and concentrate all of that expenditure in years 6, 7, 8 and 9 on a tiny area by way of diamond drilling, or whatever, and effectively exclude anyone else from exploring the remainder of that 50 square km. When we multiply that by 10 or 20 for the number of exploration licences which that company may hold in a particular area, it ties up vast areas of this State, puts it in the hands of big mining companies, and excludes some smaller exploration companies which in my opinion may do a better job in exploring the periphery of the highly prospective area.

I join in the concerns of the member for Eyre and hope the Minister will take those concerns into consideration and reconsider this matter so that he does not give such an advantage to the larger mining companies.

Mr C.J. BARNETT: I thank both members opposite for their comments, and I will certainly convey those comments to the Minister for Mines. The situation is, however, that all members on both sides of the Chamber do recognise the importance of prospectors and particularly some of the junior and smaller exploration companies. They are a classic example of small, highly motivated, personally driven groups getting out there, doing lateral and unusual things, and having success. I guess there is also an enormous number of failures and fortunes lost.

The motivation behind these changes is a desire to keep exploration leases for exploration purposes and to keep mining leases for mining. We are really talking about substantial exploration programs rather than small ones - big programs that may get delayed for some other reason. If major companies face a problem of delay and want to extend, under the existing arrangements what they would probably do, and what they would probably succeed in doing, is convert it into a mining lease, and that would make it more difficult for a prospector to get in. Therefore, while I take the point raised by the member for Northern Rivers that it may be regarded as limiting prospectors, that is not the motivation. The motivation is to ensure that where there is an exploration program, it remains an exploration lease and is not converted into a mining lease, because a prospector has far more opportunity of getting on to an exploration lease than he does on to a mining lease.

Mr Leahy: If there continued to be a relinquishment of some of that land that was not part of the 50 square km -

Mr C.J. BARNETT: That will have to be taken into account when and if such extension applications come forward. I understand that it is not a requirement that the Minister shall grant an extension for the whole of the lease area. He may well decide to provide an extension for perhaps the area in which the company is actually working, and that decision will be made on a case by case basis. There is a desire to allow prospectors to have reasonable access to land. Indeed, the granting and introduction of special prospecting licences was a move in that direction. They have applied only since July this year so it is too early to judge their effectiveness. The motivation is to encourage prospectors and junior companies, not to exclude them, and to try to keep the exploration licence areas for exploration activities and not have them converted into mining leases.

In regard to consultation, there was quite detailed consultation with the Mining Industry Liaison Committee. The Amalgamated Prospectors and Leaseholders' Association became involved in that consultation and aired its concerns, and I am advised that many of its concerns were addressed. There is probably some disquiet, but many of their concerns were addressed. I cannot enter into an argument on the points raised because in many respects they are views about what might happen. I assure the member that the intention is not to squeeze out the small companies and prospectors; rather the whole movement in giving them special licences last year, and even this, is designed to allow

them to have access to land. It will remain to be seen how it will work, but I take on board the member's concerns.

Mr GRILL: The Minister raised an interesting notion, that the Minister for Mines might grant an application for one or other or both of these extensions, but only on the basis that a portion was granted. That would go some way to alleviating some of our concerns; however, is there a clear power in the Act or pursuant to the regulations to do that?

Mr C.J. BARNETT: Page 15, line 15 refers to "the whole or any part", so it seems that the Minister can exercise some discretion. It is not up to me to preempt the way the Minister would approach that, but if a company had a licence area and wanted to maintain a continuous program, that would be the clause to look at in providing an extension. There would then be a more general argument as to whether that would extend to the wider area, and that will depend on how it is applied. The concerns of the member for Eyre have a high level of validity. It is not desirable that tracts of land be tied up with little action. The objective is for a high level of exploration, rather than the contrivance of converting them to mining leases and stopping others from coming in.

Clause put and passed.

Clauses 18 to 53 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr C.J. Barnett (Minister for Resources Development), and passed.

PAWNBROKERS AND SECOND-HAND DEALERS BILL

Committee

Resumed from 19 October. The Deputy Chairman of Committees (Mr Day) in the Chair; Mr Wiese (Minister for Police) in charge of the Bill.

Progress was reported after clause 41 had been agreed to.

Clause 42: Pawn tickets -

Mr CATANIA: I move -

Page 28, after line 23 - To add the following -

(c) (i) whether the party by or for whom the article(s) is pawned is the owner of the article;

(ii) if the party is not the owner of the article pawned the legal right claimed over the article; and

(iii) an attestation by the party by or for whom the article is pawned as to the truth of the particulars supplied in relation to the article.

This amendment will tighten the provision for authority to be given to a second party when the rightful owner is not able to redeem an article. Experience in pawnbroking establishments is that goods have been taken from a family home and been pawned without the authority of the rightful owner. This clause should ensure that people who pawn goods that are not rightfully theirs can be detected. The Bill should not be set up to trap people, but it should specifically ensure that people who pawn goods that are not rightfully theirs are apprehended at the point where the goods are to be pawned or redeemed. This amendment contains three parts which will ensure a legal process is adopted, so a second party is properly authorised to pawn or collect goods. The

amendment is specific. It tightens the provisions in this area and makes the responsibility of the party who is acting for a second party or of the owners themselves clear so that the attestation by the party for whom the article is pawned is clear. The truth of the particulars will be ensured by following these provisions. I recommend that the Minister adopt this amendment.

Mr WIESE: This amendment is not needed. It does not add anything to the legislation. The amendment as it is drafted does not fit in with the run of the legislation. It would need to be redrafted in order to do so.

Mr Catania: Why do you say that?

Mr WIESE: The member for Balcatta should read page 28 after line 23. He will see that if amended in the way he is seeking, it would not read properly or make any sense. However, the real point that needs to be addressed is that the police will already know the name of the person who is pawning the goods. What are we trying to achieve? If the person signs a declaration and the goods are not his, he is already able to be charged with having stolen property; all this will do is provide the ability to charge him with signing a false declaration as well. If the people pawning the goods make a false declaration, they will then be charged with that. The other point that must be borne in mind is that the person pawning the property will not declare that it is stolen property when he makes the declaration. It does not assist the police in any way to have this information.

Mr Catania: That is a very naive statement.

Mr WIESE: That is the member for Balcatta's opinion. The Police Department has given me the advice that it does not assist the police in trying to stamp out stolen property.

Mr Catania: The Bill does not provide the ability to apprehend; all it does is trap people. That is the problem. You should look at it carefully.

Mr WIESE: If this Bill traps people - I do not accept that it does - what the member for Balcatta is endeavouring to have included will provide another area in which they can be trapped. It will trap them into signing a false declaration. If the goods are stolen or the person does not have a legal right to them, they will still sign a false declaration and nothing will be achieved by including the power suggested by the member for Balcatta in this amendment.

Amendment put and negatived.

Mr CATANIA: I move -

Page 28, line 26 - To delete "$2 000" and substitute "$5 000".

Last night I stated to the Minister that through this Bill he had to advise the pawnbrokers and second-hand dealers of this State that he was serious about this matter by demonstrating that the penalties were tough enough and high enough to ensure that they would abide by its provisions. It is no use putting a penalty of a measly $2 000 in one of the major provisions in this Bill which deals with pawn tickets and the lending of money under contract. A pawnbroker in a strategically situated position can make $2 000 profit in a short time. There is no penalty in a fine of $2 000. A penalty of $5 000 states that we are serious about this Bill and serious about being tough with those in this industry who do not want to toe the line. If the regime of penalties is not changed, particularly in such an important clause, we may as well not have this Bill at all. It already contains many provisions that one could drive a truck through. To not accept this amendment would demonstrate that the Government is not being serious about its toughness. It is 133 years since the last Act was drafted. We now have a major opportunity to change that Act. To not do it properly would be a shame.

Mr WIESE: I do not support the amendment. The Government does not believe the offence relating to the pawn tickets and the statements is a major offence in the context of the Bill. The fine which exists is fitting to the offence.

Amendment put and negatived.

Clause put and passed.

Clause 43: Records to be made by second-hand dealers -

Mr CATANIA: I move -

> Page 29, line 25 - To add after "disposal" the words "and the name and address of purchaser".

I am seeking to establish a line of ownership; to establish that if the goods are to be disposed of by a dealer, not only the date of disposal, but also the name and address of the purchaser of those goods, is registered. There are times when goods are stolen from a family home by members of the family or by thieves. To trace these goods - they may be able to be identified after many months - we must consider providing the opportunity to establish a line of ownership or a line to where those goods eventually ended up so that some action can be taken. The amendment strengthens clause 43 and will provide additional information to administrators of the Bill if there is a necessity later to trace ownership of that good.

Mr WIESE: We have dealt with this proposed amendment previously. No offence is involved in buying goods from a pawnbroker. To require a person who buys those goods to give his name and address is totally unreasonable. Will we do that with all other businesses? We have allowed 14 days for everybody to have the opportunity to ascertain the ownership of goods. I do not believe it is reasonable to require a purchaser to give his name and address. If, down the track, it is found that we want to go in that direction, paragraph (j) will allow us to do that because it refers to "such other matters as may be prescribed".

Mr CATANIA: In suggesting the amendment, there is no assertion that the purchaser has done anything wrong. In many businesses and transactions, the purchaser is issued with a receipt or some form of documentation as part of that contract to purchase and the name and address of the purchaser is often supplied. There is nothing abnormal about a pawnbroker or a second-hand dealer or any other type of business requesting the name and address from a client. It can be stored in a computer with other information required by this legislation and it will assist in tracing goods. I am surprised that the Minister's advisers in the Police Department do not agree with this amendment because it would make their jobs much easier.

Amendment put and negatived.

Mr CATANIA: I move -

> Page 29, line 27 - To delete "$2 000" and substitute "$5 000".

As I have said on 10 different occasions in the Committee stage of this Bill, penalties should be raised if second-hand dealers do not keep proper records. In the scheme of things, $2 000 is not a great deal of money for a reasonable second-hand dealer operation. It is nothing more than a slap on the wrist. The Bill should send a message to people who have a propensity not to abide by the law that they will be heavily penalised. I think $5 000 is an appropriate penalty.

Mr WIESE: Last night the Committee knocked back the same amendment in relation to clause 41. If it had not knocked back that amendment last night, I would be inclined to accept the amendment to this clause. That highlights the problem with being supplied with amendments at the last moment. I am not prepared to accept the amendment at the moment because it would set up an inequity between pawnbrokers and second-hand dealers. However, I will be prepared to accept an amendment along these lines when the Bill is dealt with by the other place.

Amendment put and negatived.

Clause put and passed.

Clause 44: Records to be provided by second-hand dealers -

Mr CATANIA: I move -

Page 30, line 10 - To delete "$2 000" and substitute "$5 000".

This would follow from the previous amendment. Will the Minister consider increasing the penalty under clause 44, in the same way that he has indicated he will for clause 43?

Mr WIESE: I was quite sure the member would try to push his luck further! In this case the Government is not prepared to accept the amendment. This clause deals with a penalty to be imposed if the second-hand dealer does not issue a receipt with all the required details. It is a fairly minor complaint. I was prepared to increase the fine in other clauses because they deal with matters that impact on the ability of the police to track down the pawning of stolen property. Clauses 41 and 43 come into that category. The provisions of this clause do absolutely nothing to help the police, and they are not major issues.

Amendment put and negatived.

Clause put and passed.

Clause 45: Keeping of records -

Mr WIESE: I move -

Page 31, lines 1 and 2 - To delete the lines and substitute the following -

kept -

(a) in the case of records relating to contracts entered into within the previous 12 months, at the business premises nominated in the licence for that purpose; and

(b) in any other case, at a place nominated in the licence for that purpose.

It is clear from the amendment that the Government is trying to ensure that the records in close proximity to the original deals are on the premises and can be checked. I accept that it might create problems for proprietors of businesses if they were required to keep the records for the previous seven years on the premises; hence, this amendment will require records to be kept on the premises for only 12 months, and thereafter they can be kept at some other designated place.

Mr CATANIA: I have no objection to this amendment. I refer to the many amendments I have suggested in the provisions dealing with information. Most of the amendments I have proposed, other than increasing the penalties, are of a similar nature in that they require the information and records to be available as needed. Information is very important because it allows the police and the authorities who must obtain information to trace stolen property through pawnbrokers and second-hand dealers. That information should be readily available. The Minister suggested that some of my proposed amendments were not warranted; I think he is grossly naive and he will find in the not too distant future when the legislation is in operation that, if he wants it to work properly, he must make some of the amendments I have proposed.

Amendment put and passed.

Mr CATANIA: I move -

Page 31, line 3 - To delete "$2 000" and substitute "$5 000".

It is imperative to demonstrate to the community that we are serious about ensuring that the people in this business who go off the rails are punished.

Mr WIESE: I will agree to the amendment, as it is absolutely essential that the records be kept because that makes it possible for the police to enforce the legislation.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 46: Tampering with records -

Mr CATANIA: I move -

Page 31, after line 11 - To add the following -

and/or suspend the operation of the pawnbroker or second-hand dealer for a period of up to three months.

Once again, I have suggested that this amendment be part of the penalty regime throughout the Bill. I have made it clear on previous occasions that it is not enough for penalties to be imposed on individuals and body corporates. Those individuals and body corporates must be advised in no uncertain terms that their businesses will be closed - for periods from one day to three months - if they contravene the provisions of this Bill. That is the only way they will understand we are serious about this matter. It may be considered that the monetary penalties are substantial; however, if a business is not open, it cannot do business, and that hurts the proprietors most of all. If that provision were included in the Bill, it would deter pawnbrokers and second-hand dealers who have a propensity to sidestep the law whenever possible. I recommend the adoption of this penalty regime. It has the capacity to extend the operation of a business for a certain time. The legal advice I have received indicates that the business and the licence are two different aspects; that is, the licence can be suspended, but the business can continue in that situation if a licence is bought in. Many legal challenges will be attracted if this matter is not specified. This matter should be changed in another place.

Mr WIESE: We have dealt with this issue often in this debate. The licences are already able to be suspended, revoked or disqualified under clause 27. Such action can be taken by a licensing officer or the courts. The member is referring to an offence and the matter dealt with in court with the penalty of $5 000 or 12 months' imprisonment. The court also has the ability to suspend, revoke or disqualify the licence.

Amendment put and negatived.

Clause put and passed.

Clause 47 put and passed.

Clause 48: Pawn ticket "lost" or "stolen" -

Mr CATANIA: I move -

Page 31, line 23 - To add after "stolen" the following -

or allow a person who alleges that a pawn ticket has been lost or stolen to redeem the goods

We must tighten the provisions wherever possible in the legislation to ensure that it is as tough as possible against people who are likely to break the law. However, it is human nature that some people will lose pawn tickets, and others will be stolen. If someone loses a ticket on the bus home, they should be able to redeem the goods. A pawnbroker should not be able to refuse point blank to redeem goods if a person can reasonably prove that a ticket has been lost. Throughout this debate I have advocated that the legislation be as tough as possible regarding penalties and the suspension of businesses and licences. However, this legislation also involves people who are honest and a little flexibility is required. This amendment will allow that to occur.

Mr WIESE: We are not prepared to accept this amendment. The clause as it stands will allow a pawnbroker to replace a ticket that a person has lost or which has been stolen. Nobody could have a problem with that. Goods cannot be redeemed unless a person has a pawn ticket. This is outlined clearly in clause 54. If the amendment were adopted, a person would not be able to obtain a pawn ticket or redeem his property. The existing clause provides four provisos which the pawnbroker must satisfy before issuing a ticket. These provisos take care of any concerns which may be held regarding a person being issued a pawn ticket if the original were stolen or lost. A person must fill out a sworn affidavit; provide the details of the goods and the circumstances of the loss or theft of the ticket; and the pawnbroker must ascertain the person's name and verify his identity. Once these things are done, a lawful claim can be made. The member's amendment does not assist the process in any way.

Amendment put and negatived.

Clause put and passed.

Clauses 49 and 50 put and passed.

Clause 51: Where pawned goods to be kept -

Mr Wiese: Does it help to tell you that I will accept your next amendment?

Mr CATANIA: Indeed, it does. I move -

Page 33, line 10 - To delete "$2 000" and substitute "$5 000".

The Minister has recognised the importance of this clause. It indicates that if a pawnbroker has pawned goods, he must ensure that they are kept at the business premises to which the licence applies. This is a very important clause.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 52: When goods to be redeemed -

Mr CATANIA: I move -

Page 33, line 15 - To add after "goods" the following -

and identification to prove ownership or the authorisation to complete the transaction

This amendment is self-explanatory. Unless the person who goes to the pawnbroker to redeem the goods can prove identification, ownership and authorisation to complete the transaction, the goods will not be relinquished. The core of this legislation is that the people who redeem pawned goods must have authority to do so. It is essential that the legislation mirror that intent. I am sure that the Minister will agree that that is the intention of the legislation. We must tighten the provisions to ensure that identification of ownership and the person authorised to deal with the contract is legitimately enshrined in legislation. My amendment would help that process.

Mr WIESE: We do not accept the amendment. We have been through the process of identification. In this case, the person who wishes to redeem the goods must produce identification. The amendment would put an onerous requirement on the person legitimately redeeming the goods. The fact that a person possesses a pawn ticket entitles that person to redeem the goods.

Mr Catania: What if a pawn ticket is stolen?

Mr WIESE: We addressed that point when we discussed lost tickets. Pawn tickets may be sold or transferred between people, so the presentation of a pawn ticket must be accepted. The Law Reform Commission accepted that concept when making the recommendations on which the legislation is based. The Law Reform Commission recommended that holders of pawn tickets are deemed to be the owners of the goods pawned and they are entitled to delivery of the goods unless the pawnbroker has been notified by the real owner that the ticket has been lost or fraudulently taken, or has been informed by some credible person that such articles have been stolen. We are picking up that recommendation. Such an amendment would be too onerous for the majority of people legitimately redeeming their goods.

Mr CATANIA: I accept the comments, but the intent of the amendment is to ensure that every loophole is closed. I am sure that on more than one occasion a pawn ticket has been stolen or misplaced and someone has found it. The amendment will ensure that the person who steals or finds the ticket cannot take delivery of the goods unless authorised to do so or has identification to prove ownership. This is another loophole that must be closed. The majority of people who pawn goods are honest. The majority of people who go to pawnbrokers to redeem goods are honest. I want to ensure that the small percentage of dishonest people who would steal a ticket or find one and use it to their advantage, cannot do so.

Amendment put and negatived.

Clause put and passed.

Clause 53: When goods not to be redeemed -

Mr CATANIA: I move -

Page 34, line 23 - To delete "$2 000" and substitute "$5 000"

I was waiting for the Minister to accept the amendment. He has not. Obviously I have not convinced him that a penalty of $5 000 is more acceptable. It is a pity that we did not adopt this regime of penalty at the beginning of the Committee stage. We could have gone through the Bill and substituted such a penalty. Penalties are for people who act dishonestly. Honest brokers do not need to worry about penalties because they will not incur them. The amendment will deter the people who are perhaps on the borderline; those who think that if they do something dishonest, the penalty will be $2 000 but it is only a small amount. They will pay the fine easily if they gain substantially from a dishonest transaction. I urge the Minister to accept this amendment.

Mr WIESE: I do not accept the amendment. Subclause (2) requires a pawnbroker to notify the police of the reasons he has not redeemed an article when a pawn ticket has been delivered and a redemption requested. The pawnbroker would do that as quickly as he could get to a telephone.

Amendment put and negatived.

Clause put and passed.

Clause 54 put and passed.

Clause 55: Sale of unredeemed goods -

Mr CATANIA: I move -

Page 35, after line 15 - To add the following -

and/or suspend the operation of the pawnbroker for a period of up to three months.

This is another important clause. We must ensure that pawnbrokers who accept goods are not permitted to sell the goods until the redemption period expires. This fundamental provision should be enshrined in legislation. Because it is a fundamental provision the penalty regime should reflect the importance of the clause. Unredeemed goods are not the property of the pawnbroker but of the consumer who has brought them to the pawnbroker. Although the pawnbroker may have a lien by virtue of the money loaned to the consumer, that lien does not constitute ownership. The pawnbroker should not be able to sell the goods until the redemption period has expired. We must signal to the pawnbrokers that we are very serious about this aspect. We should indicate to the entire industry that if goods are pawned, pawnbrokers do not have the authority to sell the goods; it is against the law. It is stealing. If a pawnbroker acts in such a way the shop will not be open for business the day after that occurrence. We should not say that they will face a monetary fine, or that in the case of a body corporate the fine will be $20 000. Both amounts may mean nothing to wealthy pawnbrokers. However, the closure of the businesses will be the real penalty. That will be the real deterrent. Businesses provide income. It is the business that accumulates enough money for the owner to be able to pay the fine. If a pawnbroker is allowed to operate his business after he has been found guilty of selling pawned goods, he is not really being penalised. If a person is imprisoned he should not be allowed to continue operating his business with the assistance of his family or friends. Until the Minister's Crown Law advice tells him otherwise -

Mr Wiese: I told the member that he would have to get his own advice.

Mr CATANIA: I have mine and I suggest that the Minister get his because I will continue to challenge him on this issue. A pawnbroker serving 12 months in prison could arrange for another pawnbroker to take over his business for that time. A fine of $5 000 is a lot of money to some people, but to others it is chickenfeed; the only real penalty is

to suspend the pawnbroker's operation. By suspending his operation for between one day and three months, depending on the seriousness of the offence, he is being warned that if he does not do the right thing he will be penalised.

Mr WIESE: This issue has been raised on many occasions during this debate. Substantial penalties can be imposed under the Bill and in this case the penalty is $5 000 and 12 months' imprisonment for an individual and $20 000 for a body corporate. The court and the licensing officer have the power to revoke or suspend a licence, or disqualify a person from holding a licence. The powers that are required are included in the Bill.

Amendment put and negatived.

Clause put and passed.

Clause 56: Unredeemed goods not to be bought by or on behalf of pawnbroker -

Mr CATANIA: I move -

Page 36, after line 7 - To add the following -

and/or suspend the operation of the pawnbroker for a period of up to three months.

This clause is very important and I am happy that it is included in the Bill. It would be an advantage to a pawnbroker if he, or a person acting on his behalf, purchased unredeemed goods at a price which should not have been accepted by the person pawning the goods. This action could be compared with insider trading of shares. It is a serious offence for a pawnbroker to purchase unredeemed goods and an appropriate penalty would be for him to have his operation suspended for a period of up to three months. My amendment would strengthen the provisions of the Bill and spell out to the pawnbroker that if he is dishonest and indulges in this sort of behaviour, he will be penalised. Members on this side of the Chamber frown on this sort of behaviour and believe the penalty should be harsh.

Mr WIESE: I agree with the member that this is a very important clause and contravention of it could be compared with insider trading. The court has the ability under this Bill to suspend the operation of a pawnbroker for up to 12 months if he contravenes this clause. The member's amendment would decrease the powers of the court.

Mr CATANIA: I think the Minister is wrong. My amendment would not decrease the powers of the court. The court could determine the level of the penalty. The Minister should flag to the pawnbrokers and the second-hand dealers that he is dinkum about introducing tough legislation.

Amendment put and negatived.

Clause put and passed.

Clause 57 put and passed.

Clause 58: Records to be made on sale of unredeemed goods -

Mr CATANIA: I move -

Page 36, line 26 - To delete "$2 000" and substitute "$5 000".

A lot of people leave unredeemed goods with a pawnbroker and, as this clause provides, the pawnbroker should keep a record of those goods, including their sale. The records can then be scrutinised and the people who have left unredeemed goods with a pawnbroker will be able to see where they have gone. If a pawnbroker does not keep such records, he should be penalised. I plead with the Minister to ensure that the penalty is increased from $2 000 to $5 000.

Amendment put and negatived.

Clause put and passed.

Clause 59: Notice as to surplus -

Mr CATANIA: I move -

Page 37, line 7 - To delete the line and substitute the following -

(a) the sale price and related costs and the amount of any surplus proceeds of the sale; and

Without my amendment this clause would not be sufficient. The owners of the unredeemed goods should be advised of the price their goods attracted when they were sold and the amount of any surplus proceeds of the sale. As I have stated concerning other amendments of this nature, the more information recorded the better.

Mr WIESE: We are not prepared to accept this amendment. Under clause 58(2) the person is already able to obtain the information suggested in the amendment. This clause enables the person to be notified of the surplus and the person is able to follow it up if he wishes. We are not dealing with the large number of people the member for Balcatta indicated. Eighty per cent of the articles are redeemed so we are talking about only the 20 per cent not redeemed. There is also an ability for the person to opt out of being given notification. If they do not want to be notified, that does not happen. Clause 59(2)(b) indicates a surplus of less than $25 will trigger the requirement on the pawnbroker to notify of surplus. That was the amount recommended by the Law Reform Commission in 1985, which amount is probably far too low now. We have the ability to prescribe a higher amount and we will be doing that. It could be $50 or $75. We will take guidance from the industry.

Amendment put and negatived.

Mr CATANIA: I move -

Page 37 line 11 - To delete "$2 000" and substitute "$5 000".

I am consistent, as the Minister will agree, in pushing to increase the penalty from $2 000 to $5 000. This is a very important and controversial clause. The reasons for my insisting on $5 000 have been given on a number of occasions. I implore the Minister to accept that. On various occasions he has done so and I am happy about that. This particular increase in penalty should be accepted.

Amendment put and negatived.

Clause put and passed.

Clauses 60 to 63 put and passed.

Clause 64: Re-pledging of goods prohibited -

Mr CATANIA: I move -

Page 39, after line 6 - To add the following -

and/or suspend the operation of the pawnbroker for a period of up to three months.

As we have stated previously, this is one of the central clauses and it is very important. If a pawnbroker accepts a pawned item he holds it in trust and has a lien by virtue of the money paid to him. This clause is basic to this Bill and should attract this heavier penalty in order that the officers who are given the responsibility can ensure the provisions of this Bill are abided by. To threaten the viability of the business by closure for up to three months is a strong deterrent. The pawnbroker is in a position of trust and the goods are held in trust. We know what the laws of Australia do to people who infringe on trust contracts. I urge the Minister to accept this amendment.

Mr WIESE: We have dealt with this issue half a dozen times already. We do not agree it is needed. The power is already in the Act.

Amendment put and negatived.

Clause put and passed.

Clauses 65 to 73 put and passed.

Clause 74: Entry to and inspection of licensed premises without warrant -

Mr CATANIA: I move -

Page 43, line 4 - To delete "without" and substitute "with the production of a".

If enforcement is not properly carried out, the point of drawing up this Bill and presenting it will be lost. By "properly carried out" I mean in a way that does not impinge on the rights of the pawnbrokers, second-hand dealers or consumers. We cannot impinge on the basic democratic rights of people. Clause 74 seeks to provide that a member of the Police Force may, without warrant, enter a premises to which a licence applies. I am deeply opposed to that impingement on the basic rights of people. I urge that the Minister reconsider accepting this amendment. Although I understand the frustrations sometimes felt by police who are given the responsibility of policing these businesses - it will be open to great abuse - we cannot accept that any member of the Police Force should be able to enter a premises without the appropriate warrant. It is central to a democratic system and we should not give it up. A warrant can be obtained by a simple process. It is better to sophisticate the process than throw out a basic human right that we hold so dearly in Australia.

This is something the draftsman of this legislation and the Minister should reconsider. The simple amendment will have the effect as we go through part 4 and the enforcement area of maintaining enforcement and the integrity of the democratic system by insisting that a warrant be produced. Once that is changed there is in effect a simple, practical and speedy method of obtaining a warrant for a police officer who needs to carry out his duties under this clause.

Mr WIESE: This amendment would make the job of the police virtually impossible. In carrying out their duties of enforcement with second-hand dealers and pawnbrokers, the police must be able to enter all premises to carry out their inspection. That is the basis upon which the whole thing must be done. To have a warrant to go into every single premises before they can do their normal checking procedures would virtually prohibit the police from doing their job. It would make it impossible. The amendment would totally defeat the intent of this legislation, which is that the police will be able to go in at any time a business is open and carry out an inspection to see if there is any property that has been reported stolen. I find it extraordinary that the member for Balcatta has had such a turnaround since he brought his legislation in here. In his own legislation he clearly indicated the belief that the police officer had to be able to enter, as he does, without a warrant. I can read the clause for him from his own legislation. It is clause 40(2) in the previous legislation that the member for Balcatta brought into this Chamber, which says clearly that a police officer may, at any time when a second-hand dealer's or pawnbroker's premises are open for business, enter those premise without a warrant. He got it right the first time. Why is he changing his mind now?

Mr CATANIA: There is a difference. Clause 74 reads -

> (2) A member of the police force may, at any time when premises to which a licence applies are open for business, require a person who is apparently in charge of the premises to open storage premises to which the licence also applies.

Those are premises to which a licence applies. The whole clause should be amended. I am trying to obtain a logical conclusion. A warrant is necessary if the police officers need to enforce an action. A warrant is not necessary if a police officer goes into a pawnbroker and looks around without asking the owner of those premises to do anything specific.

Mr Wiese: That is exactly what this clause does. It talks about the entry and inspection of licensed premises.

Mr CATANIA: It says that a police officer may force the owner of premises to open storage premises to which the licence also applies. I believe in the spirit of democracy

that where you are forcing a person to do something you should have permission to do it. If someone is going in to see whether there are stolen goods and to take a look through the premises, there is no problem with that. If an occasion arises where a police officer may force a licence holder to do something, he should have a warrant. If the officer goes through the premises without having to force anything on that licence holder, there is no need for a warrant.

Mr WIESE: I repeat, it is a total nonsense to require a warrant to go into the premises in the first place and then require a police officer to obtain a warrant for records or something else.

Amendment put and negatived.

Mr CATANIA: I move -

Page 43, line 19 - To delete "$2 000" and substitute "$5 000".

The Minister has heard me say this a number of times: This is something we should insist on. It should be consistent throughout the legislation and there should be a penalty of $5 000 rather than $2 000. I have stated my reasons on many occasions. I do not think there is any need to labour the point.

Amendment put and passed.

Mr CATANIA: I move -

Page 43, after line 19 - To add the following -

and/or suspend the operation of and licence of the pawnbroker or second-hand dealer until the books and records are produced as requested by the police officer.

This again stresses the importance of the pawnbroker keeping records and having available on the premises information that may be requested by the police. If that information is not available, the police can lock the door until the information is available. That is what I have stated on various occasions. One has to ensure that the threat is there. It may never be carried out, but it should be there.

Mr WIESE: Sometimes this member absolutely amazes me. He was complaining about giving a police officer power to enter premises without a warrant. He now wishes to give the police officer powers to close down the business when he walks in there. To give a police officer power to walk in and close down a business is draconian, and I do not think it would be acceptable anywhere.

Amendment put and negatived.

Clause, as amended, put and passed.

Clause 75: Assistance in the location of goods at licensed premises -

Mr CATANIA: I move -

Page 44, line 19 - To delete "$2 000" and substitute "$5 000".

I will not elaborate on it. The Minister has accepted this, and that is a very wise decision.

Amendment put and passed.

Mr CATANIA: I will not move the second amendment, because I am happy that the Minister has accepted the first one.

Clause, as amended, put and passed.

Clause 76: Provision of, and assistance in relation to, records etc. -

Mr MARLBOROUGH: What is meant in clause 76(1) which states, "Where a member of the Police Force has lawfully entered premises to which a licence applies . . ."? What am I to presume by the words "lawfully entered"?

Mr Wiese: That the police officer has the powers under clause 74 to go into the premises.

Mr MARLBOROUGH: Under clause 74 that person needs no power; that person can just go in.

Mr Wiese: The premises are open for business so that person would lawfully be able to enter.

Mr MARLBOROUGH: Surely we have not progressed from clause 74 where nothing is mentioned about lawful requirements by the police, to clause 75 which starts talking about a lawful requirement and then to clause 76 which refers to it specifically. It seems amazing to me that it would be written in such a way to talk about the premises as being open. One hopes that we are not talking about breaking into the premises. The word "lawfully" in clauses 75 and 76 indicates to me that the person may need a warrant. Why are these clauses written in such a way? What lawful requirements are needed?

Mr Wiese: If the premises are closed, the person needs a warrant to go in. That is a lawful requirement.

Mr MARLBOROUGH: Am I right to assume that where it says that there are lawful requirements and the premises are closed, a person could need a warrant?

Mr Wiese: Yes.

Mr MARLBOROUGH: Quite honestly, it is rather confusing and it could be tidied up. Clause 74 talks about no requirement at all. Clauses 75 and 76 talk about a requirement. I point out to the Minister that clause 76 is a bit confusing when read in conjunction with clauses 74 and 75 which talk about a police officer going onto premises. This clause then brings in this lawful requirement. Perhaps it should be spelt out where a warrant may be required; for example, if the premises are closed.

I raised with the Minister the day before yesterday my concern about clause 76. The penalty is nowhere near severe enough for the offence. This offence warrants the removal of a licence. I am not suggesting that the police officer is the one who should remove the licence. That is catered for in another clause. The purpose of this Bill is based on the community's belief - the Minister also believes this - that some sections of the industry are able to be misused for purposes other than fair trading in goods and money. The word "misused" is referred to because the thieves in this town see this as a very handy method by which to launder their goods, with very little scrutiny by either the owners or the police because they do not have the resources available to them. This trade has boomed in recent years because the smarties who make their money other than by working have decided that the second-hand and pawnbroking industry is a place where goods can be laundered fairly quickly.

There are three major parts in this legislation. One is the accountability of the individual who applies for a licence to work the business. Secondly, having received a licence, there are penalties in this Bill to remove a licence in certain circumstances. There is a belief that some circumstances are so severe that they require a licence to be removed. Under this Bill the licence holder is given protection, but members of the public are not. Although a licence may be taken away, there is nothing to stop that licensee within 14 days getting another person to run the licence. Forty-eight hours ago in response to a question, the Minister indicated that that is so. It is a ludicrous situation.

It is one of the reasons the racing industry suffers today from a perception within the community that it is not straight. Trainers can have their licences suspended. Why? Because they have been seen to have broken the law; yet their stables continue to operate with the licence being handed over to a member of the family or a foreman. There are a thousand horses in my electorate. This situation is occurring right now. Withdrawing a licence does not take the stigma away from the industry and it does not stop the whole of the industry being tainted by that sort of activity. If a licence is taken away from a corporate body, that body can employ an individual who has passed the test to obtain the licence and who can continue on the premises. In that case, the corporate owner suffers no penalty at all.

The third part that underpins the legitimacy of this exercise of trying to clean up the industry, which I would have thought was fundamental for the legislation, is the proper

keeping and holding of records. Under clause 76 the fine for the lack of proper keeping and holding of records is only $2 000. The shadow Minister has just indicated that the penalty is nowhere near adequate enough. Not keeping proper records is an offence in this industry that should automatically lead to the suspension of the licence and the person should never be able to hold a licence. I cannot understand how the Minister and his advisers can believe that this industry can be legitimised through this legislation. They have already indicated to me that a removal of a licence does not take away the ability to operate the business.

Mr Wiese: That is a nonsense.

Mr MARLBOROUGH: The Minister has already indicated that it is not a nonsense. The licence may be removed but there is nothing to stop the business from operating.

Mr Wiese: I have never indicated that.

Mr MARLBOROUGH: The Minister has obviously changed his mind from what he is recorded as saying in *Hansard* two days ago. I asked the Minister this specific question. I am quite happy to be told by the Minister now where in this legislation that is not prevented from happening. Regardless of that, this penalty is absolutely inappropriate. A $5 000 fine is adequate. It is fundamental to this legislation that proper records be kept, and kept on the premises. If that does not happen, it should lead to the removal of a person's licence.

Mr CATANIA: I move -

Page 45, line 18 - To delete "$2 000" and substitute "$5 000".

Mr WIESE: I am prepared to accept that amendment. I will deal with the matters for the umpteenth time for the benefit of the member for Peel. The member for Peel picked the wrong clause to talk about this matter. This clause requires the pawnbroker to produce the records to the police officer who enters the premises. It is not the clause that requires a pawnbroker or a second-hand dealer to keep the records. The member for Peel is correct when he says that the keeping of records on the premises is a very important aspect of the legislation. I am prepared to raise the fine to $5 000.

The licensing officer has the ability to remove, suspend, revoke or disqualify the licence. The member for Peel has talked about various issues. He is right when he says that the person can have a licence revoked. In the case of a business with a single operator, it is finished. None of the businesses can operate without a licence. I will refer to the courts here. The court also has the ability when the case comes before it to suspend, revoke or disqualify. The licence can be suspended, and the member is correct in saying that the corporation or partnership can apply for someone else to hold the licence. However, that does not mean that person will get the licence. The licensing officer must be satisfied that the applicant is of good character and is a fit and proper person, that there will be adequate management, supervision and control of the business, that the applicant has not been involved in conduct of a nature that renders the applicant unsuitable to hold a licence, and about a range of other issues outlined in clause 19. If the licensing officer was not satisfied about those matters, he would not issue the licence, and the matter would then go to a court and the court would make a decision. If the court was not satisfied about all of those matters, the licence would not be issued and that business could not operate. All of the powers that are needed are already in the legislation. They are very strong powers - I do not know how we could make them stronger - and deal with the situation about which the member is talking.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 77: Police may seize records for certain purposes -

Mr WIESE: I move -

Page 45, lines 23 to 25 - To delete the lines and substitute the following -

(2) If a record is seized under this section, then as soon as practicable -

(a) a receipt is to be issued; and

(b) either the original record is to be returned or a copy of the record is to be given,

to the person from whom the record was seized.

The amendment is self-explanatory.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 78 put and passed.

Clause 79: Information about goods to be given to Commissioner in accordance with regulations -

Mr CATANIA: I move -

Page 46, line 27 - To delete "$2 000" and substitute "$5 000".

Mr WIESE: We accept the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 80: Notice to stop dealing -

Mr WIESE: I move -

Page 47, line 3 - To delete "believe" and substitute "suspect".

Amendment put and passed.

Mr WIESE: I move -

Page 47, line 4 - To delete "may".

Amendment put and passed.

Mr CATANIA: I move -

Page 47, after line 23 - To add the following -

and/or suspend the operations of the pawnbroker or second-hand dealer for a period of up to three months.

I have said consistently throughout this debate that another penalty should be added to the regime of penalties. The member for Peel and I have argued that a monetary deterrent is not enough. We can only signal to the industry that we are dinkum about being tough on those people who indulge in activities that are contrary to the provisions of this Bill if there is the power to threaten their viability. Honest operators will not worry about such a penalty, but it will be a threat to dishonest operators.

Mr WIESE: We have dealt with this matter many times. The powers are already in the Act.

Amendment put and negatived.

Clause, as amended, put and passed.

Clause 81: Seizure of goods suspected stolen -

Mr CATANIA: I move -

Page 47, line 29 - To delete "may without warrant seize the goods" and substitute the following -

with the warrant seize the goods or without a warrant instruct the goods to be held for a period of 21 days at the said premises.

I have given reasons that the authority to seize goods without a warrant is a precedent we should not adopt easily. We would be doing away with a basic human right if we were to allow police to enter premises and seize goods without a warrant.

I agree that stolen goods should be able to be seized, but that should be on the issuing of a warrant. The Minister should put in process a system to enable the police to obtain warrants in a more practical and efficient manner. He should not allow this Bill to enshrine a right to seize goods from people without a warrant. This would open up the floodgates to all sorts of unacceptable behaviour. My amendment will allow police to seize goods on the premises of a pawnbroker or second-hand dealer if they believe they were stolen, but before they enter the premises a warrant must be obtained by them. Obtaining a warrant is not a difficult procedure, although it has been stated on various occasions that it is difficult. If the process is streamlined and more sophisticated it will be even simpler. I urge the Minister to adopt this amendment because not to do so would set a dangerous precedent.

Mr WIESE: The Government is not prepared to accept this clause. Half of the powers the member specifies in this amendment are included in clause 80. That clause gives police the ability to serve a notice on the pawnbroker and second-hand dealer, so that goods cannot be removed from the premises. In relation to the ability of police to enter premises without a warrant, the reality is that the police have substantial powers in other areas to operate without a warrant. For example, other Acts which duplicate those powers include the Police Act, the Misuse of Drugs Act and the Firearms Act; so police can take action without a warrant. I also point out that the member went beyond these powers in the legislation that he introduced last year.

Mr Catania: The powers were not available without a warrant.

Mr WIESE: The member for Balcatta gave the police the power not only to seize goods, but also to detain vehicles. That is far beyond the powers in this clause. The member's Bill proposed to detain a vehicle driven by the pawnbroker or his employee. The Bill contains reasonable powers which are essential for the police to carry out the task of stopping illegal deals in pawnbroking and second-hand operations.

Amendment put and negatived.

Mr CATANIA: I move -

Page 48, line 12 - To add after "dealer" the words "without delay".

If goods are seized from a pawnbroker or second-hand dealer and are later proved not to be stolen goods, they should be returned to the pawnbroker without delay. A number of complaints were received from pawnbrokers that police had seized goods and the goods were not returned. Perhaps they went into a charity auction conducted by police, but the pawnbrokers did not see these goods again. There should be an obligation on the police to return goods seized from a pawnbroker or second-hand dealer if it is found that the goods are not stolen.

This advice came from various pawnbrokers, who stated they had queried police months after goods had been seized, but they were not returned. I urge the Minister to adopt this amendment because it gives more integrity to the process.

Mr WIESE: I am not prepared to accept the amendment as it stands; however, if the member were prepared to withdraw his amendment I would move to add after "dealer" the words "as soon as practicable". The result is the same, and it is consistent with other parts of the legislation. For instance, clause (a) contains the phrase "as soon as practicable".

Amendment, by leave, withdrawn.

Mr WIESE: I move -

Page 48, line 12 - To add after "dealer" the words "as soon as practicable".

Mr CATANIA: I am happy to accept that, although I thought my amendment was more direct.

Amendment put and passed.

Mr CATANIA: I move -

Page 48, after line 12 - To add the following -

> Advise the dealer that the goods are no longer required and can be sold under normal conditions.

It is a logical conclusion that once the goods are no longer required to be held, the dealer is advised that they can be sold under normal conditions.

Mr WIESE: The Government is not prepared to accept the amendment. Its implication is that once those goods are returned to the dealer they are held on his premises on exactly the same basis as they were before. A second-hand dealer is required to hold the goods for 14 days. A pawnbroker is required to hold them for three months. The amendment could have the implication that he could sell them straight away.

Amendment put and negatived.

Clause, as amended, put and passed.

Clauses 82 to 93 put and passed.

Clause 94: Secrecy -

Mr CATANIA: I move -

Page 57, line 7 - To delete "$2 000" and substitute "$5 000".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 95 to 99 put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Bill reported, with amendments.

LOAN BILL

Second Reading

Resumed from 19 October.

MR GRAHAM (Pilbara) [5.24 pm]: This afternoon I intend to speak on the Commission on Government. There was an agreement behind the Chair that I would speak this morning; however, I broke a tooth and spent an hour and a half this morning at the dentist. Although I am not a great one for making apologies, I apologise for the inconvenience that has caused. I also appreciate the arrangements that a number of speakers have made to enable me to give this speech this afternoon. I intend to raise some particularly serious problems that are confronting this House as a result of the actions of the Joint Standing Committee on the Commission on Government.

The Court Government has compromised and politicised the position of the Presiding Officer in this Chamber. I say that carefully because I am aware of the standing orders that prevent me from reflecting on the Chair. This is not the first Court Liberal Government to ever compromise a Presiding Officer in this Chamber. I take the memory of the House back to 23 December 1977. The headline on the front page of *The West Australian* of that date states "Court warns Speaker on use of vote". That was not the current Premier, Richard Court, but his father, Sir Charles Court. There was a debate in the Parliament about some voting laws.

A Government member interjected.

Mr GRAHAM: I will not go through the merits of those laws. In debate on those voting laws a casting vote was required to be cast by the Speaker, and the Speaker did not vote with the Government of the day. The article states -

> Liberal MPs said yesterday that Mr Thompson disagreed that there was a parallel between his position and that of a Cabinet minister.

The Liberal Government led by Sir Charles Court was arguing that the Speaker was a

member of Cabinet and was bound by the same principles as Cabinet solidarity. The article continues -

> He had argued that a Speaker should be impartial.
>
> But because Sir Charles had put his view of the Speaker's role so forcefully Mr Thompson had given a tacit understanding that if circumstances similar to those in November arose again, he would reconsider his position . . .

The article makes the point quite clearly as follows -

> Some Liberal MPs believe that the problems which occurred last month would be less likely to arise in future if Mr Thompson attended joint party meetings at which government legislation was discussed.
>
> They said yesterday how the Speaker voted was his decision. The important thing was for him to give other members and the Government notice of his intention.

The article concludes as follows -

> But to maintain the Speaker's traditional role of impartiality he would not attend meetings when legislation was being discussed.

In 1977 the Liberal Party clearly used its party mechanisms and machinery to pull the Presiding Officer in this Chamber into line. What is happening with the Commission on Government has some extraordinary similarities. The Speaker in his capacity as Speaker is required to be the arbiter of matters in this Chamber. The position is now politicised to the extent that the Speaker was elected by only government members as the chairman of a committee and is now part of the political processes and the deliberations of the Liberal Party. There is absolutely no doubt about that. It is extremely difficult, if not impossible, for a person to be both the judge and the accused. That is the position in which the Court Government has put the Speaker of this House. I will provide the reasons I say that in a moment.

There are older and wiser heads in the Liberal Party, because the President of the Legislative Council did not fall for the trap. He did not become one of the Liberal Party's Legislative Council nominees on the Commission on Government committee. However, the Liberals could not totally resist temptation: They put in his deputy, and the same principles apply to him. How does a member of the Commission on Government who has a difficulty with the standing orders of the Parliament and the way they are applied to the commission, or with the conduct of that committee, apply to the person who is both the chairman of the committee and the arbiter of any dispute? How could that happen with any degree of equity? A point of order was taken yesterday. I am very aware of the rules about canvassing the Speaker's ruling and I am not seeking to do that. However, the standing orders that apply to the Commission on Government are the standing orders of the Legislative Assembly and no other standing orders.

The DEPUTY SPEAKER: Order! The time has arrived for certain business to be dealt with in accordance with the allocation of the time sessional order. Therefore, in accordance with the sessional order, this business is interrupted and is set down as an order of the day for a later stage of this day's sitting.

Point of Order

Mr RIPPER: I understand that one of the reasons this procedure is being adopted is that the third readings of Bills subject to the guillotine could not be put before the House as clean prints of the Bills were not available due to the amendments. Will you assure the House that whereas five minutes ago clean prints were not available, prints of the Bills with all amendments are now available for the House to consider?

The DEPUTY SPEAKER: Order! They are not required because the Chairman has certified that the amendments agreed to in Committee are in the copies of the Bill. As we go through the procedure, a statement is made to that effect.

[Continued on p 5820.]

MINES SAFETY AND INSPECTION BILL

Report and Third Reading

The DEPUTY SPEAKER: Order! The time has arrived for the completion of all remaining stages of this business and, under the sessional order, every question necessary to complete the business must be put without further debate or amendment. The question is -

That the report be adopted and that the Bill be now read a third time.

Question put and a division taken with the following result -

---

Ayes (25)

Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Trenorden
Mr Board	Mr Minson	Mr Tubby
Mr Bradshaw	Mr Omodei	Dr Turnbull
Mr Cowan	Mr Osborne	Mrs van de Klashorst
Mr Day	Mrs Parker	Mr Wiese
Dr Hames	Mr Pendal	Mr Bloffwitch *(Teller)*
Mr House	Mr Prince	
Mr Johnson	Mr Shave	

Noes (20)

Mr M. Barnett	Mr Grill	Mrs Roberts
Mr Brown	Mrs Hallahan	Mr Taylor
Mr Catania	Mrs Henderson	Mr Thomas
Mr Cunningham	Mr Kobelke	Ms Warnock
Dr Edwards	Mr Marlborough	Dr Watson
Dr Gallop	Mr McGinty	Mr Leahy *(Teller)*
Mr Graham	Mr Ripper	

Question thus passed.

Bill read a third time, and returned to the Council with amendments.

PAWNBROKERS AND SECOND-HAND DEALERS BILL

Report and Third Reading

The DEPUTY SPEAKER: Order! The time has arrived for the completion of all remaining stages of this business and, under the sessional order, every question necessary to complete the business must be put without further debate or amendment. The question is -

That the report be adopted and that the Bill be now read a third time.

Question put and a division taken with the following result -

---

Ayes (25)

Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Trenorden
Mr Board	Mr Minson	Mr Tubby
Mr Bradshaw	Mr Omodei	Dr Turnbull
Mr Cowan	Mr Osborne	Mrs van de Klashorst
Mr Day	Mrs Parker	Mr Wiese
Dr Hames	Mr Pendal	Mr Bloffwitch *(Teller)*
Mr House	Mr Prince	
Mr Johnson	Mr Shave	

Noes (20)

Mr M. Barnett	Mr Grill	Mrs Roberts
Mr Brown	Mrs Hallahan	Mr Taylor
Mr Catania	Mrs Henderson	Mr Thomas
Mr Cunningham	Mr Kobelke	Ms Warnock
Dr Edwards	Mr Marlborough	Dr Watson
Dr Gallop	Mr McGinty	Mr Leahy *(Teller)*
Mr Graham	Mr Ripper	

Question thus passed.

Bill read a third time, and transmitted to the Council.

LOAN BILL

Second Reading

Resumed from an earlier stage of the sitting.

MR GRAHAM (Pilbara) [5.40 pm]: That was a bizarre interruption to my speech, because when all the debate had finished the guillotine was applied. The Opposition called for those divisions only in protest at the Government's use of the guillotine.

The DEPUTY SPEAKER: Order! The member for Peel knows that it is disorderly to walk between the person in the Chair and the member on his feet.

Mr GRAHAM: Before that silly interruption, I made a point about the way the 1977 Court Government politicised the role of Speaker and inextricably pulled it into the party systems of the Liberal Party. I referred to the view of the then leader of the Liberal Party, Sir Charles Court, that the role of Speaker was an extension of Cabinet and the Speaker should conduct himself that way. The incumbent Speaker was disciplined by the Liberal Party for not toeing the party line. The member for Riverton looks amazed. I have in my hand the newspaper from 1977 with the quotes, and I will explain it to the member in little words so that he can understand it.

I further made the point that the process is alive and well, and is happening today with the politicisation of the Speaker and his role, and the Commission on Government. Points of order were taken yesterday regarding the application of the standing orders, and I have no intention of canvassing the ruling of the Speaker. The ruling made by the Speaker today made it quite clear that Standing Order No 377 applies to the reports of the Commission on Government. Standing Order No 377 outlines the processes and procedures the committee must follow in order to table a report in Parliament. I raised a point of order under Standing Order No 378, and pointed out that it provides that every report of a committee shall include a statement showing the costs associated with that committee. The Speaker ruled against me. I have no intention of canvassing the ruling of the Speaker, but members who are interested in the application of that standing order may be interested to note that Standing Order No 378(b) states that every report of a committee "shall" include a statement. The Speaker ruled that that provision is a discretionary position of the select committee. The Interpretation Act makes it quite clear that when the word "shall" is included in a rule or legislation, it is mandatory and not optional. Interested members may like to read that standing order in conjunction with the Interpretation Act and decide for themselves whether they can reconcile the two views, because I cannot.

The minority report of the Joint Standing Committee on Commission on Government raises a series of questions about the processes applied in that committee. I state categorically that Standing Order No 377 was not complied with by that joint standing committee. Standing Order No 377 requires the chairman to either read or circulate the report to members of the committee, should they so choose, and fix a date for consideration of the report by the committee. That did not occur.

Standing Order No 379 states that reports of a committee "shall be brought up by the Chairman, or by some other Member of and appointed by the Committee for the purpose". That also did not occur. The failure to comply with those two standing orders are serious breaches of the standing orders of the Parliament. In fact, those breaches could well constitute a contempt of the Parliament. The committee did not deliberate on the report, and neither did it appoint a person to present the report to Parliament. Imagine the uproar if I came into this Parliament as a member of the Public Accounts and Expenditure Review Committee and presented a report which I purported to be a report of that committee, without that report having been before the committee and without my having the authority from the Public Accounts Committee to table it. I could and should rightly be called to order, and such a report should not be tabled in the name of the Public Accounts Committee. The report of the Joint Standing Committee on Commission on Government should not have been tabled in this Parliament. The tabling of the minority report yesterday was by arrangement made behind the Chair, with some alterations, and under the suspension of standing orders. The only report legitimately before this Parliament from the Joint Standing Committee on Commission on Government is the minority report. The other report breaches the standing orders, and was not brought into this Parliament by an appropriate person or after having been endorsed by the committee.

Mr Trenorden: If that is the case, the minority report is out of order too.

Mr GRAHAM: No, it is not. The member for Avon cannot come into the debate late and buy in half way through the argument. I will leave the standing orders argument aside for now, together with the position in which it puts the Presiding Officer of this House.

I refer to the content of the evidence from some of the candidates and the process by which the joint standing committee dealt with candidates for the Commission on Government. The royal commission recommended that people appointed to positions on the commission have relevant knowledge and experience of the major subject matters of the inquiry. There is no doubt about that.

Mr Trenorden: What does the Act say?

Mr GRAHAM: The legislation states that the Minister should not appoint anyone unless that person has the relevant knowledge and experience of the specified matters contained in the schedule of the legislation. I set out on a course during the committee hearings questioning the nominees about their knowledge and experience of the specified matters, as required by the royal commissioners. According to the legislation, the Minister is required to form an opinion on these questions. On only one occasion was sufficient time allowed to enable me to question candidates about their knowledge and experience. When my questioning ceased other members of that committee could gain no more information about the knowledge and experience of those candidates. There was no other way of determining the knowledge and experience of those people. Committee members cannot possibly know whether the nominees are suitable people to be members of the commission. The committee allocated itself, on the vote of the majority of Government members, only one half hour in which to speak to each candidate. The time lapsed and on one absurd occasion my line of questioning to a potential commissioner on government was stopped, ceased, halted by the chairman, so that the committee could break for a cup of tea. The committee never resumed. We knocked off questioning someone who will rewrite the political history of Western Australia so that he could have a cup of tea with us. That is the degree of diligence government members applied to the scrutiny of these people. The Parliament gave this job to those members, yet at no stage were standing orders applied to the questioning of witnesses; at no stage did the chairman of the committee apply the rules, which he is bound under oath to enforce; and at no stage were the appropriate questioning arrangements adopted.

Mr Trenorden: Like what?

Mr GRAHAM: As the member for Avon was a member of the committee, he should know. He should read standing orders.

Mr Trenorden: I never know what you are talking about.

Mr GRAHAM: The member should shut his trap and listen occasionally!

Mr Trenorden: Unfortunately, I do.

Mr GRAHAM: As some dispute arose between government and opposition members about the required knowledge and experience of the candidates, government members said to me, "You're only grandstanding. You do not need to know whether these people have the knowledge and experience to do the job. It is the Minister's job to determine that; the legislation is clear." I can accept that argument, although I do not agree with it.

However, in the 23 minutes in which the committee deliberated on the merits of these people, I proposed to government members that we call the Minister to put my mind at rest, along with those of the royal commissioners and the public. This decision related to $30m worth of royal commission. I asked that we call the Minister to determine whether he was of the opinion that the candidates were suitable people to take up the position on the commission. It would be no surprise to discover that my motion was defeated along party lines; government members would not accept that the committee should bring the Minister before it to ensure that $30m worth of work was not put at risk.

The DEPUTY SPEAKER: Order! The member for Kenwick will come to order. This is the second occasion in which the member has walked between the member on his feet and the Chair. I remember two years ago when people came jolly close to being thrown out of the Chamber for such an offence.

Dr Watson: It is because I am so tall.

The DEPUTY SPEAKER: In view of the member's normal good behaviour in this place, I will accept an apology.

Dr Watson: I apologise.

Mr GRAHAM: I will not use my full half-hour on this matter - members can breath a sigh of relief. However, I emphasise that no-one in the room during the committee proceedings would not be aware that government members, including the Speaker of this Legislative Assembly, acted upon the instruction from the Executive arm of Government.

Mr Trenorden: You're going way over the top.

Mr GRAHAM: Government members acted in concert with the Executive. Undoubtedly, the committee acted in breach of standing orders of this Parliament.

Mr Trenorden: Tell us how.

Mr GRAHAM: If the member had bothered to be here when I started my speech, he would be aware of that!

Mr Trenorden: I should not have bothered to be here for any of it.

Mr GRAHAM: I will go through it again for the benefit of the member for Avon - slowly.

Mr Trenorden: For about 11 minutes.

Mr GRAHAM: Does the member for Avon understand the term "committee"? Does he want me to explain it?

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr GRAHAM: The standing orders which apply to the Joint Standing Committee on the Commission on Government are the Standing Orders of the Legislative Assembly. Standing Order No 377, by the decision of the Speaker this morning, was the vehicle by which the report was tabled - and rightly so. Does the member for Avon understand that?

Mr Trenorden: Yes.

Mr GRAHAM: Standing Order No 377 was breached by the joint standing committee and the member for Avon as follows: The standing order reads -

> The Chairman shall read to the Committee convened for the purpose the whole of his draft report -

He did not do that. It continues -

> - which may at once be considered -

It was not. It continues -

> - but if desired by the committee, it shall be printed and circulated amongst the Committee . . .

This was not done. The order then refers to a subsequent day being fixed for its consideration, and that was also not done. Like other members of the committee including, I assume, the member for Avon, I had not sighted the report until it was tabled in Parliament; I was aware of the decision but not of the report. Undoubtedly, this is the suitable standing order for the tabling of the report. The member for Avon may be aware that the Speaker deemed this to be the case this morning. Standing Order No 378, which outlines what shall happen to the report, was also breached. Is the member for Avon keeping up?

Mr Trenorden: I am listening. You can go over it again if you want.

Mr GRAHAM: Standing Order No 379 outlines how the report should be brought to Parliament. It reads -

> The report of a Committee shall be brought up by the Chairman, or by some other Member of and appointed by the Committee for the purpose . . .

The report was not brought up by the chairman, and some other member was not appointed for that purpose by the committee. The order then indicates that the report may be ordered to lie upon the table, or otherwise be dealt with. Again, the standing order was breached. This was done by the person who is empowered by the Parliament to enforce standing orders.

In conclusion, people can put whatever connotation they like on my comments. Nevertheless, the facts are irrefutable. I present them deliberately as it is not possible to make these points during the proceedings of the Joint Standing Committee on the Commission on Government as government members on that committee vote according to the dictates of the Premier.

Mr Kierath: You have just not been persuasive enough in presenting your points of view.

Mr GRAHAM: I know that the member for Riverton is a person of great eloquence, so can he explain how it is possible for 10 people to decide in 23 minutes whether five persons are suitable for this important commission?

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr Kierath: Tell us how ALP members have voted against party lines; give some examples.

Mr GRAHAM: I have only seven minutes left.

Two problems arise from the behaviour of the Commission on Government committee and its presiding officer: First, how can the Executive arm of Government take a recommendation to the Governor when it is known that the process followed was not in accordance with the standing orders of the Parliament? Clear breaches occurred in arriving at a decision. In fact, the minority report is the only legitimate report from that committee before the Parliament, and that report recommends to the Executive that the people nominated should not be appointed. The report recommends that meetings be reconvened so as to deal effectively with this decision. Appointments made contrary to the minority report recommendations would be null and void.

The second problem is most important: How does the Parliament now deal with the breaches of standing orders of the Parliament by a presiding officer in his capacity as

Chairman of the Joint Standing Committee on the Commission on Government? To whom do I take my grievance?

Mr Trenorden: To the Parliament.

Mr GRAHAM: How do I take my grievance to the Parliament when the person in the Chair - not you, Mr Deputy Speaker, but in a rhetorical sense - who will determine the suitability of my debate is the person against whom I raise the grievance; that is, he is a person who has breached the standing orders? How do we possibly deal with that situation in this place? I leave the House to ponder both questions. I look forward to hearing an answer either from members opposite or from the Chair.

Debate adjourned, on motion by Ms Warnock.

STATEMENT - DEPUTY SPEAKER

Sessional Order, Procedures Adopted

THE DEPUTY SPEAKER (Mr Strickland): Members raised questions about why certain procedures were adopted under the sessional order. The situation is simply that under our standing orders, if Bills are amended they cannot proceed to the third reading stage on that day. Therefore, it was a procedural requirement to deal with them under the sessional order.

House adjourned at 6.02 pm

QUESTIONS ON NOTICE

BOARDS AND COMMITTEES, GOVERNMENT - APPOINTMENTS

880. Dr WATSON to the Parliamentary Secretary representing the Minister for Education; Employment and Training; Sport and Recreation:

(1) Since February 1993, how many people has the Minister appointed to boards and committees in each portfolio under the Minister's administration?

(2) How many of those appointments have been women?

(3) How many terms of women have expired in that time?

(4) What goals does the Minister have in relation to achieving equal representation of men and women on boards and committees in each portfolio?

Mr TUBBY replied:

The Minister for Education; Employment and Training; Sport and Recreation has provided the following response:

(1)	Education	81
	Employment and Training	93
	Sport and Recreation	25
(2)	Education	26
	Employment and Training	29
	Sport and Recreation	12
(3)	Education	15
	Employment and Training	8
	Sport and Recreation	5

(4) The Minister has a commitment to EEO practices and ensures that women have an equal opportunity for appointment to boards and committees.

GOVERNMENT PUBLICATIONS - SPORTSVIEW

1131. Mr GRAHAM to the Parliamentary Secretary representing the Minister for Education:

(1) What was the cost of production of the document *Sportsview*, July 1994?

(2) What was the purpose of producing the document?

(3) What was the cost of distribution of the document?

(4) To whom were the copies distributed?

(5) Where was the document printed?

(6) Which company printed the document?

(7) How often are issues of the document produced?

(8) Is the document printed by the same organisation for every issue?

Mr TUBBY replied:

(1)-(8) *Sportsview* is the official publication of the Western Australian Sports Federation - an autonomous body composed of representatives of different state sports associations.

GENDER BIAS - REPORT RECOMMENDATIONS IMPLEMENTATION

1204. Dr WATSON to the Minister for Labour Relations:

(1) With reference to the recommendations of the report to the Chief Justice

on Gender Bias, will the Minister implement the following recommendations -

(a) 142;

(b) 143;

(c) 144

(d) 150?

(2) If the answer is no to any of the recommendations, what are the reasons for not implementing each of those listed?

Mr KIERATH replied:

(1)-(2) The Attorney General and Minister for Women's Interests is currently obtaining advice from the Chief Justice and agencies within her portfolio regarding the 198 specific recommendations of the report. This will include referral to other agencies as appropriate. Consideration will be given to the matters raised in the member's question once this process is complete. However, in respect of the issues raised in recommendations 142, 143, 144 and 150 I am happy to provide the following details -

(a) I have commissioned a full review of the Western Australian labour relations legislation. This review is being conducted by Hon Gavin Fielding, Acting President of the Western Australian Industrial Relations Commission. The Government has already provided for universal parental leave to women and men in Western Australia through the Minimum Conditions of Employment Act. The Minimum Conditions of Employment Act has made parental leave available to employees who previously did not have access to this entitlement, for example those not covered by awards or those covered by awards without parental leave provisions. Part time employment is already available and extensively used in the public sector. Access to permanent part time work in the private sector is subject to negotiation between the employers and employees concerned.

(b) People in unpaid work in the home are excluded from the jurisdiction of the Western Australian Industrial Relations Commission by the Industrial Relations Act and until Hon Gavin Fielding's review of this Act is complete it would be premature to make any such commitments to alter this situation. However, the principle of workers' compensation is that compensation should be paid for personal injury arising in the course of an employer/worker relationship. As unpaid work in the home does not involve an employer there is no entity against whom compensation for injury could be claimed.

(c) The Government recently reviewed aspects of the Workers' Compensation and Rehabilitation Act in regard to thresholds for common law on damages for non-pecuniary loss and on legal advice has determined that the existing provisions do not offend EEO principles.

(d) Codes of practice under the Occupational Health, Safety and Welfare Act are developed by the Occupational Health, Safety and Welfare Commission. Codes of practice developed by the commission have focused on particular hazards to health and safety rather than on specific industries. The commission's recommended code of practice on hepatitis B and HIV/AIDS in the workplace was introduced in 1990. This code is currently being reviewed by the commission following the release of a national

code of practice on human immunodeficiency virus and hepatitis B in the workplace by the National Occupational Health and Safety Commission. The commission has indicated its intention to include a reference to the sex industry in the revised code of practice for Western Australia.

GENDER BIAS - REPORT RECOMMENDATIONS IMPLEMENTATION

1217. Dr WATSON to the Minister for Multicultural and Ethnic Affairs:

(1) With reference to the recommendations of the report to the Chief Justice on Gender Bias, will the Minister implement the following recommendations -

(a) 50;

(b) 113?

(2) If the answer is no to any of the recommendations, what are the reasons for not implementing each of those listed?

Mr KIERATH replied:

(1)-(2) The Attorney General and Minister for Women's Interests is currently obtaining advice from the Chief Justice and agencies within her portfolio regarding the 198 specific recommendations of the report. This will include referral to other agencies as appropriate. As a policy advisory unit, the Office of Multicultural Interests will liaise with the Attorney General's office and provide advice on those aspects relating to people of a non-English speaking background, as required. Consideration will be given to the matters raised in the member's question once this process is complete.

SPORT AND RECREATION - LOTTERIES COMMISSION FUNDING, EXPENDITURE

1223. Mr TAYLOR to the Parliamentary Secretary representing the Minister for Sport and Recreation:

(1) What is the total amount available to the Minister in 1994-95 for expenditure from the Lotteries Commission funding sources?

(2) What expenditure has been undertaken by the Minister from this source to date this financial year?

(3) Will the Minister provide details of the projects and applications, if any, supported to date?

Mr TUBBY replied:

The Minister for Sport and Recreation has provided the following response -

(1) The total anticipated amount available in 1994-95 from funds expected to be received from the Lotteries Commission, and unallocated funds and savings from 1993-94, is $6 656 584.

(2) Applications approved since 1 July 1994 total $1 734 131.

(3) Applications were approved in the following categories -

Country package	$53 015
State sport associations	$752 116
Recurrent funding to organisations such as WAIS	$922 000
Special projects	$7 000

SPORT AND RECREATION - KALGOORLIE-BOULDER, CITY OF, NEW FACILITY FUNDING

1224. Mr TAYLOR to the Parliamentary Secretary to the Minister for Sport and Recreation:

(1) What State Government financial assistance, if any, is available to support the development of a major new sport and recreation facility in the City of Kalgoorlie- Boulder?

(2) Has the Minister been approached by the City of Kalgoorlie-Boulder to support such a project?

(3) If so, what was the nature of that approach?

Mr TUBBY replied:

The Minister for Sport and Recreation has provided the following response -

(1) No financial assistance is currently available. If funds are made available for the community sporting and recreation facilities fund in 1995-96, an application could be submitted at the appropriate time.

(2) No.

(3) Not applicable.

SCHOOLS - FEES, ASSISTANCE

1234. Dr WATSON to the Parliamentary Secretary representing the Minister for Education:

(1) What will State school students of parents on pensions who qualify for Austudy and hold their own health care card be entitled to in way of assistance with school fees in 1995?

(2) Will a uniform allowance be paid in 1995?

(3) If not, why not?

(4) Will these entitlements also be paid to all school students of pensioner parents?

(5) If not, why not?

(6) Does the Minister acknowledge that some children are unable to participate in school activities, including examinations, if the fee is not paid early in the year?

(7) How many Western Australian children needed special assistance to pay school fees in 1993-94?

(8) Is the fact that school fees are not paid a matter of record for teachers to access freely?

(9) If so, why?

(10) Why should school fees be paid in the State system?

Mr TUBBY replied:

(1) Students of parents on pensions will be eligible for the full Austudy allowance.

(2) A clothing allowance will be paid to eligible students in 1995. In 1994 this was $115 per annum for children whose parents hold an approved health care card. Once students are eligible for Austudy or Abstudy, their parents are no longer eligible for this secondary assistance scheme.

(3) Not applicable.

(4) Parents who are pensioners will be eligible for an approved health care card and will have access to the secondary assistance scheme outlined above.

(5) Not applicable.

(6) In 1994 the application date for the secondary assistance scheme was aligned with the application date for other support schemes, 31 March. This closing date is to ensure that the payments are made at the earliest opportunity.

(7) 23 147

(8) School policy would dictate access to information in schools.

(9) Not applicable.

(10) Regulation 56 provides for the approval of certain charges at schools. Schools are currently required to provide a normal curriculum within the $215 maximum charge approved for years 8 to 10.

DOMESTIC VIOLENCE, WIFE ASSAULT - BUDGETS

1248. Dr WATSON to the Parliamentary Secretary representing the Minister for Education:

(1) What budgets were allocated and spent on issues related to domestic violence - wife assault - in 1993-94?

(2) What budget has been allocated for 1994-95?

(3) What training/education/conference participation has been arranged for officers of the department in -

(a) 1993-94;

(b) 1994-95?

(4) What information has been/will be compiled for public distribution in -

(a) 1993-94;

(b) 1994-95?

(5) Have any reports related to the issue been prepared in 1993-94?

(6) Is there any estimate of the costs associated with domestic violence (wife assault) as they impact on your portfolio?

Mr TUBBY replied:

The Minister for Education has provided the following reply -

(1) The prevention education supplement to the health education K-10 syllabus was produced in 1991 to teach school children knowledge, attitudes and skills to avoid or deal more effectively with child abuse and domestic violence. In 1993 and 1994 the Education Department of Western Australia and Hospital Benefit Fund jointly funded the establishment of the school child protection project. The project provides training to teachers in government and non-government schools to implement the prevention education supplement and other child protection programs. The Education Department provided $20 000 to the establishment of the project. In addition, a significant amount of resources has been allocated to the implementation of the prevention education material by government schools and Education Department district offices.

(2) The Education Department has allocated $10 000 to further support the school child protection project in 1994-95. Additional to this, schools and Education Department district offices will

continue the implementation of the prevention education supplement.

(3) The school child protection project operates by training a person in each Education Department district to be available to provide professional development to school and district groups. In the period September 1993 to September 1994, 111 training sessions for approximately 2 200 participants were conducted.

(4) The consultant for gender equity is currently liaising with members of the national project on gender and violence. The project is developing materials to address issues of gender-based violence for use with students and with teachers and parents. Two Western Australian writers are being funded by the national project to participate in developing these materials and trials will be held in WA schools.

(5) No.

(6) In 1994-95 an EDWA budget of $33 000 has been allocated to work in schools to specifically address issues for boys. These issues include sexual and sex-based harassment, strategies of non-violent conflict resolution and effective communication skills.

SCHOOLS - WILUNA
Transportable Classrooms Removal

1308. Mr LEAHY to the Parliamentary Secretary to the Minister for Education:

Will the Minister advise why the transportable classroom was removed from the Wiluna School after assurances were given to me and others by the Education Department that the status quo would be retained until the end of the school year and the situation reassessed depending on enrolment for next year?

Mr TUBBY replied:

The Minister for Education has provided the following reply -

The transportable classroom was removed from Wiluna School because of the current low enrolment and the projected low enrolment for 1995. Initial arrangements included the removal of a home economics classroom which was urgently required at a school where student numbers are rapidly increasing. However, after some negotiation with the school, arrangements were made for the removal of a general teaching classroom instead of the home economics facility.

I understand that the member for Northern Rivers was advised of this decision by Mr R. Somerville, Superintendent of Education, Kalgoorlie on 12 August 1994.

STATE PRINT - PROFIT OR LOSS FIGURES

1399. Mr RIPPER to the Minister for Services:

(1) With reference to question on notice 1358 of 1994 and the Minister's claim that the profit of the commercial operations of State Print has increased since he assumed responsibility for this portfolio, what was the profit of the commercial operations of State Print in 1991-92, the last full financial year before the change of Government?

(2) Why has the State Government now provided the House with three different figures for the profit or loss of the commercial operations of State Print in 1993-94 viz -

(a) $70 000 loss - page 861 Program Statements 1994/95 Budget papers;

(b) $18 000 profit - Mr Duffield's answer given to Estimates Committee A on 25 August 1994;

(c) $142 000 profit - Minister's answer to question on notice 1358 of 1994 on 27 September 1994.

(3) Which of these three figures, if any, is correct?

Mr KIERATH replied:

(1) The 1991-92 trading result is $335 000. 1991-92 is the first year that costs were separated into commercial and non-commercial costs. For comparative purposes the 1990-91 trading result - for commercial and non-commercial operations - was a deficit of $1.5m as against a deficit of $231 000 for 1991-92. The large turnaround in this period was due to cost cutting through a redundancy program. Trading results for the years 1992-93 to 1993-94 show a more consistent pattern, given the break-even objective of State Print.

(2) (a) This figure was prepared in advance of finalising end of year accounts and was an estimate only.

(b) As stated in Mr Duffield's answer, this was the unaudited figure at that stage.

(c) The 1993-94 trading result is as follows -

$158 000 - before abnormal items, superannuation, stock adjustments
$142 000 - after abnormal items.

(3) See (2)(c).

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - UNITING AID-DOVE HOUSE, FINANCIAL COUNSELLOR FUNDING APPLICATION

1401. Mr BROWN to the Minister for Community Development:

(1) Has Uniting Aid-Dove House previously applied for funds to engage a financial counsellor?

(2) Was the application successful?

(3) If not, why not?

Mr NICHOLLS replied:

(1) Yes.

(2) No.

(3) The application from Uniting Aid was not given priority as the agency was located outside of the area it was proposing to service.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - FAMILY CRISIS PROGRAM

Outcomes Measurement Criteria

1402. Mr BROWN to the Minister for Community Development:

(1) What criteria are being used to measure the outcomes of the Family Crisis Program?

(2) What factors were taken into account in determining the criteria?

Mr NICHOLLS replied:

(1) The criteria are -

The extent to which persons who presented with a financial problem received assistance, including financial counselling;

The extent to which the Family Crisis Program is directed to those most in need; that is, families with dependent children;

The number of people who receive a bill paying service from the department; and

The cost of providing assistance by the department.

(2) The criteria were selected on the basis of demonstrating effectiveness and efficiency in delivering the program.

ROADS - PERTH-DARWIN NATIONAL HIGHWAY

1410. Mr KOBELKE to the Minister for Planning:

In light of the Environmental Protection Authority's report on the Perth-Darwin National Highway given in Bulletin No. 753 of August 1994, what steps has the Minister taken to initiate each of the studies, plans and policies called for in recommendations 3 to 16 of the report?

Mr LEWIS replied:

The recommendations in the Environmental Protection Authority's Bulletin No 753 are still subject to appeal and the Minister for the Environment's conditions to implement the report are yet to be determined. It is the conditions which are required to be implemented, not the recommendations. It is therefore not appropriate to initiate any action for studies or plans until this process if finalised.

HOMESWEST - RIGHT TO BUY SCHEME
Morley, Beechboro, Lockridge, Eden Hill, Bassendean, Ashfield

1438. Mr BROWN to the Minister for Housing:

(1) How many houses has Homeswest sold to tenants under the right to buy scheme in -

(a) Morley;

(b) Beechboro;

(c) Lockridge;

(d) Eden Hill;

(e) Bassendean;

(f) Ashfield?

(2) How many homes remain available for sale under the right to buy scheme in each of the suburbs mentioned in (1) above?

Mr PRINCE replied:

(1) (a) 4.
(b)-(c) 5.
(d) 2.
(e)-(f) 1.

"Sold" has been interpreted as "settled".

(2) All tenants in occupation in these suburbs have a right to apply to purchase subject to the rules of the Right to Buy scheme.

HOMESWEST - NEW HOUSES AND UNITS CONSTRUCTION; TOTAL STOCK

1439. Mr BROWN to the Minister for Housing:

(1) How many new houses and units were built by Homeswest in the financial years -

(a) 1991-92;

(b) 1992-93;

(c) 1993-94?

(2) How many new houses and units will be built and completed by Homeswest in the 1994-95 financial year?

(3) What was the total stock of Homeswest-

(a) two-, three-, four- or five-bedroom homes;

(b) townhouses;

(c) units or flats;

on -

(i) 30 June 1992;

(ii) 30 June 1993;

(iii) 30 June 1994?

Mr PRINCE replied:

(1)	Commencements	Completions
(a)	1 922	918
(b)	2 362	2 449
(c)	1 806	1 862

(2) 1 800.

The figures provided in 1(a) do not include community housing. The figures provided in questions 1(b), (c) and (2) include spot purchase properties, community housing, Aboriginal housing and WiseChoice. The answer to question (2) is subject to quarterly review.

(3) Figures cannot be obtained in the exact format requested for 30 June 1992 and 30 June 1993, as figures are only available separately by dwelling type or number of bedrooms. Totals are provided as requested for 30 June 1994.

[See paper No 427.]

PRISONS - OFFICERS, HARASSMENT CLAIMS

1440. Mr BROWN to the Attorney General:

(1) Have a number of prison officers at different institutions complained to the Ministry of Justice about being harassed and victimised at work by junior management?

(2) Have such claims been treated with contempt and strongly resisted by senior management?

(3) In a number of instances have prison officers who have been the target of such activities, sought and successfully claimed workers compensation for work induced stress?

(4) Why has the Attorney General failed to take action to ensure this type of activity is stopped?

Mrs EDWARDES replied:

(1)-(4)

Two wide ranging inquiries under section 9 of the Prisons Act have been initiated by the Director General. These inquiries were initiated in response to concerns expressed by prison officers and prison administration at Canning Vale and Casuarina prisons. Until the inquiries are complete it would not be appropriate to comment on these matters.

LAND - CROWN RESERVE 27807 - FREMANTLE FISHING BOAT HARBOUR - MEWS ROAD

1496. Mr McGINTY to the Minister for Planning:

(1) Is the Department of Planning and Urban Development able to approve a subdivision for any of the land within Crown Reserve 27807, Fremantle Fishing Board Harbour - Mews Road?

(2) What steps are required to be undertaken by the Minister for Lands to approve an application to construct residential dwellings within the boundary of Crown Reserve 27807?

Mr LEWIS replied:

(1) No. The subdivision of Crown land is the responsibility of the Department of Land Administration.

(2) Approval for residential - or other - development would be required from the State Planning Commission and the City of Fremantle. A building licence from the city would also be required.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE PAYMENTS SCHEME - REGISTRATION AGE; JOSE, FRANK, REGISTRATION

1501. Mrs ROBERTS to the Minister for Labour Relations:

(1) Can the Minister advise whether it is usual practice for the Construction Industry Long Service Leave Payments Board to register an employee in the Construction Industry Long Service Leave Scheme when the age of said employee and the compulsory retirement age at the time of registration should indicate that the employee would not gain enough service days to qualify for long service leave or a pro rata payment?

(2) If no, can the Minister advise why Mr Frank Jose was registered in 1990 at age 59?

(3) Can the Minister further advise why the CILSLPB refuses to release contributions made by the State Energy Commission of Western Australia on behalf of Mr Jose if the registration was valid?

(4) If yes to (1), can the Minister advise where the funds contributed by employers that cannot be accessed by former employees are held and to what purpose?

Mr KIERATH replied:

(1) The requirements in administering the Act are that workers will be registered on receipt of their application forms providing they are in a classification of work covered by one of the prescribed awards and that their employer is performing work which is covered by the Act's definition of "construction industry". The board does not have the authority to reject worker applications on the basis that the worker may not ever become entitled to long service leave or a pro-rata payment.

(2) Mr Jose was registered in 1990 because he fulfilled the requirements - as outlined in (1) above - to become a registered worker.

(3) The board can only make payments in the following manner -

(a) Payment direct to a registered worker where they have reached a minimum of 2 200 credits - the equivalent of 10 years' service - with the board.

(b) Reimbursement to the employer where they have paid out their worker in accordance with their legal requirement for long service leave or pro-rata leave on termination or retirement. This is specifically covered in section 51 of the Act.

Where the employer makes an ex gratia payment to a worker on retirement or termination and there is no legal requirement to do so, the board has no authority in its legislation to reimburse the employer.

(4) All contributions received by the board are pooled and used to administer the scheme and pay long service leave entitlements to registered workers. Surpluses resulting from situations similar to this example are retained in the fund which is subject to an annual actuarial review where the contribution levy payable by employers is reviewed and has been progressively reduced to its current rate of 0.05 per cent.

The Construction Industry Portable Paid Long Service Leave Act, which was enacted in 1985 has caused many concerns to those affected by its provisions. In response to these concerns I have indicated that there will be a review of the Act. If the member has any particular problem with the Act or its administration, I would encourage her to make a submission to the reviewer.

QUESTIONS WITHOUT NOTICE

ROYAL COMMISSIONERS - ROYAL COMMISSION SECOND REPORT, LEADER OF THE NATIONAL PARTY'S CLAIMS

502. Mr McGINTY to the Deputy Premier:

I refer the Deputy Premier and Leader of the National Party to the comment by Professor Peter Boyce, reported in today's edition of *The West Australian*, that the claim that the royal commissioners received the second report of the royal commission only the day before they released it, was simply not true. Will the Leader of the National Party now withdraw his claim and apologise to the royal commissioners and to this House for misleading it, as part of his party's campaign to discredit the findings of the royal commission?

The SPEAKER: Order! Before this question proceeds further, I do not believe it relates to the ministerial responsibilities of the Leader of the National Party. However, if he indicates that he wants to answer it, he may do so.

Mr COWAN replied:

I am quite happy to answer the question. I thank the member for the question because it gives me an opportunity to make a couple of points when answering it. I have only ever made two claims: Firstly, that the second report of the royal commission was not written by the royal commissioners; and, secondly, that they received the report in such a short time before it was released that they did not have time to properly consider it.

Dr Gallop: You said 24 hours.

Mr COWAN: I said that in the first instance.

Dr Gallop: Can I add to that?

Mr COWAN: No, the Deputy Leader of the Opposition cannot because I am sick of him. In order to give the Leader of the Opposition the answer he seeks, I make the following point: It has now been acknowledged that the second report was written by somebody else, predominantly Professor Finn. In all the statements that have been made in the Press, I have always argued that we could settle this matter easily: One of the commissioners or Professor Boyce could indicate precisely the time at which the draft report was delivered to the commissioners. I read the newspaper this morning very carefully in the hope that I would find the date on which the

draft report was presented to the commissioners, but that date was not there. This matter could be settled very simply. All that needs to happen is that one of the commissioners, or Professor Boyce for that matter, provide a clear indication of when the draft report was delivered to the commissioners and when the commissioners delivered the report to the Governor. If that difference in time is such that in my view the commissioners did have time to properly consider the report, I will be the first to admit that I was wrong.

Dr Gallop: Goodness gracious. They have already said that.

Mr Cowan: They have not - give me a date!

The SPEAKER: Order!

INDUSTRIAL RELATIONS - REFORMS, BENEFITS TO VULNERABLE PEOPLE

503. Mr BLOFFWITCH to the Minister for Labour Relations:

Can he inform the House of any recent examples of government industrial relations reforms which have directly benefited the more vulnerable in our community?

Mr KIERATH replied:

The Opposition moved a motion, albeit unsuccessfully, on 22 September which attacked the Government regarding the living standards of the more vulnerable people in our community. I happened to read the spring edition of the *Work Force* magazine - for members who do not know, that is a union magazine - in which an article referred to a better deal for workers with disabilities, and indicated that such people were previously excluded from awards. These people may receive some hope and help from a test case being mounted in the Industrial Relations Commission. These people may - I emphasise the word "may" - receive some help from that test case, but that is typical in that the award system has excluded many people with disabilities from receiving appropriate remuneration in the workplace. This magazine acknowledged that fact. Where do such people go? They must go to the new federal Industrial Relations Commission, which is complex and legalistic. If people must rely on that for a little hope, they may as well give up.

I was very angry to read that Mr Martin Ferguson had attacked the Western Australian and Victorian Governments claiming that nothing was being done in this area. Interestingly, the Federal Labor Government has taken eleven and a half years to reach this stage of development regarding vulnerable workers. The State Government has been in power for only 18 months, and on 1 December last year, after being in office for less than a year, we passed our workplace agreement legislation. These measures provided the opportunity for people with disabilities to obtain workplace agreements. We achieved in 18 months what the Federal Labor Government could not achieve in eleven and a half years. However, Mr Ferguson has the temerity to criticise this State Government.

On 6 October *The West Australian* contained an article referring to a young girl, Suzie Sulley, who has cerebral palsy. She has signed a workplace agreement as a clerical worker in the Health Department.

Dr Watson: She is not a girl; she is a woman.

Mr KIERATH: I am sorry. In comparison to my age she is a young girl. The Civil Service Association and the award system would not have allowed this worker anything -

Mr McGinty: This is an abuse of question time. Tell him to get on with it.

The SPEAKER: Order! The Leader of the Opposition made a similar comment yesterday. The Minister has been speaking for only three or four minutes. In the scheme of things in the almost 21 years I have been in this place, that is not an excessive time for a Minister to provide an answer. I am aware of the point the Leader of the Opposition is making, but I do not need him to interrupt proceedings in that way.

Mr KIERATH: I guess those opposite do not like it because the truth hurts. They know that their system has not accommodated people with disabilities; our system has. It did not take eleven and a half years or a complex legal case before the Industrial Relations Commission; it took a simple assessment of this young lady's disability of 43 per cent and negotiation with her legal guardian and she was able to get a working wage that reflected her abilities. Work works, pity does not. Our Government has delivered meaningful work for a person with disabilities. Those people do not have to wait for a possible legal case in the Industrial Relations Commission; the situation can be resolved quickly. I thought that the Opposition would join with us in congratulating the young lady on her work and the Government for providing meaningful work for people with disabilities in this State.

DURACK, DAME MARY - ARCHIVAL RECORDS

504. Mr McGINTY to the Premier:

With some regret, I again call on the Premier to apologise to one of Western Australia's most famous daughters, Dame Mary Durack. I refer to the Premier's unprincipled and untrue allegation that Dame Mary was attempting to sell her family diaries and records overseas, to his Arts Minister's outrageous accusations of the dispute being a money-grabbing exercise, and to the Premier's further comments in this place yesterday that the archival records were up for sale.

(1) Is the Premier aware that if Dame Mary Durack's archival possessions were returned, after 20 years, to the Battye Library, they would join a large backlog of unaccessioned material?

(2) Is he aware that the Battye Library has not the staff or resources to provide public or scholarly access to these documents in the foreseeable future?

(3) Has he taken the trouble to find out that, far from his claim that the records were for sale, in fact a monetary offer by the Battye Library was made without any prompting from the Durack family?

(4) Will the Premier immediately apologise for his Government's unfair, inaccurate and heavy-handed attack on this frail, 82 year old Western Australian and withdraw the Supreme Court writ?

Mr COURT replied:

(1)-(4) The Leader of the Opposition is the most unprincipled person I have seen in this Parliament.

Mr McGinty: Stop throwing mud and answer the question.

The SPEAKER: Order!

Mr McGinty: Deal with the issue that is before you. You are a muckraker of the first order. Answer the question.

The SPEAKER: Order! I formally call to order the Leader of the Opposition, not for what he said, but for the fact that he continued to interject after I had called order.

Mr COURT: The Leader of the Opposition is best described as an educated

Brian Burke. The Leader of the Opposition has cynically and mercilessly used a family in the past couple of days for his cheap political gain. I find the tactics of the Leader of the Opposition the most despicable I have seen. Members of the Durack family have asked that there be no more public comment on this issue. It has become an embarrassing situation for their family -

Mr McGinty: For you and your heavy-handed Government. Be decent enough to apologise.

The SPEAKER: Order! The Leader of the Opposition has asked his question.

Mr COURT: I respect the position requested by the members of the Durack family. If the Leader of the Opposition could tell it straight in this Parliament, he would know that a similar request has been made of all people in this matter. All I can say is that the Durack family is a fine family. It is the pits that the Leader of the Opposition has stooped to this level in his first week in the job.

MAMMOGRAPHY SERVICES - MIDLAND CLINIC

505. Mrs van de KLASHORST to the Minister representing the Minister for Health:

I have given some notice of this question. As many members will know, we have just opened a mammography clinic in Midland. Sometimes it is very difficult to get women of ethnic background aged over 50 years to attend a mammography screening. Will the Minister advise the provisions that have been put in place to encourage full participation by the large number of ethnic women in the Midland region to attend the new screening clinic?

Mr MINSON replied:

I thank the member for some notice of the question. I think that I can be considerably more helpful today than I was yesterday when answering a question about carcinoma of the prostate.

Six measures are taken by the Health Department when dealing with mammographies for ethnic women. They are -

Personalised invitation letters;

liaison with and information for ethnic health workers and ethnic community groups and organisations, community health services and general practitioners;

Mr Catania: Is it written in English?

Mr MINSON: I imagine they are written in the applicable language.

The list continues -

community education and group talks;

group bookings for ethnic groups are encouraged, because it is well known that when they come in with a peer support group they are more comfortable with the situation;

translated material including consent forms are available in 12 languages; and

accredited interpreters are used at the screening service, if required.

COUNCIL HOUSE - FUTURE

506. Mr KOBELKE to the Premier:

Given that the planning statement released by the Premier today for the City of Perth included sketches with the current Council House building

missing, and that in his media statement the Premier said, "Stirling Gardens would be opened up, improved and expanded to occupy areas now used by Council House and its car parks", does this mean that the Government has made the decision to support the demolition of Council House; and, if so, when was the decision made?

Mr COURT replied:

A conceptual plan has been released, and we want public comment over the next few months. Nothing has been set in concrete; we will see what comes through as public comment. I made the comment this morning that our aim was to put out, as best we can, a noncontroversial blueprint. The only issue about which some concern has been expressed by some people - and I emphasise, by some people - during the negotiation process related to Council House. We have never hidden that fact. As part of the negotiations we have dealt with all the different government departments and all the major private sector organisations that have an interest in the matter, and that includes the Northbridge Business Association and the like.

Mr Kobelke: You can't make the hard decisions.

Mr COURT: We will make the hard decisions in two months' time when the public has had adequate time to comment on the proposal.

Mr Kobelke: So, you will recommend demolition!

Mr COURT: Does the member for Nollamara support the concept of the overall blueprint?

Several members interjected.

The SPEAKER: Order!

Mr Kobelke: You are back where you were when you came to Government.

Mr COURT: The member cannot make the hard decision and say that he supports the proposal.

INDUSTRY COMMISSION - ANNUAL REPORT

507. Mr TRENORDEN to the Premier:

Has the Premier seen the 1993-94 annual report of the Industry Commission? Does he have any comment on the report?

Mr COURT replied:

The Federal Government's Industry Commission has put out a report that is highly critical of the Federal Government's handling of commonwealth-state financial relations. The document supports strongly the concept of competitive federalism. The approach is that the Federal Government is harming meaningful reform in the various state economies by its attitude to financial relations between the two bodies. As far as we are concerned the biggest threat to the federation, and the thing that is destroying the effectiveness of the federation, is the abuse of the Federal Government's financial strength. As the economy grows, the Federal Government is the major beneficiary of the financial revenue that flows to its coffers. It is clear that the States will miss out. The Commonwealth will have additional funds; it will have its sports rorts and its arts rorts, and those types of programs but that will put a huge strain on the States. As it mentioned in its report, that is damaging the speed with which true reform can be brought about. The Industry Commission is to be congratulated for being prepared to spell out an issue that we have been promoting for some time, and perhaps before the next election the Opposition will tell us what is its position on the current commonwealth-state financial relationship.

COMMISSION ON GOVERNMENT - ROYAL COMMISSION SECOND REPORT

508. Dr GALLOP to the Premier:

(1) Is the Premier concerned that one of his nominees on the Commission on Government had not read the second report of the royal commission?

Mr Trenorden: How could the Premier know that?

Dr GALLOP: Because it is in the report tabled today.

(2) What steps did the Premier take to assure himself that his nominees had "knowledge and experience relevant to the specified matters or a majority of those matters" as required under section 10(2) of the Commission on Government Act 1994?

Mr COURT replied:

(1)-(2) All of the five nominees have the knowledge and experience required to carry out these duties.

Dr Gallop: They do not have that knowledge and experience. That is ridiculous.

Mr COURT: The Deputy Leader of the Opposition is a know-all; wait a minute and I will give him the full answer. The former Leader of the Opposition and the current Leader of the Opposition went to great lengths to discredit most of those people. The current Leader of the Opposition called them a second-rate mob, a sad old lot, etc. These are the people from whom one could really accept that sort of criticism - the very people who were the architects of -

Dr Gallop: What about answering the question?

Mr COURT: I will answer the question. Members opposite are running around the corridors of this Parliament, saying that one of the nominees - and they are saying who the person is - did not even read the second report. That person happens to be the only person who members opposite said was highly suitable for the position.

SWAN RIVER TRUST - INQUIRY BY CARR AND GAYLE

509. Dr TURNBULL to the Minister for the Environment:

With regard to the inquiry which is currently being conducted by Carr & Gayle into the Swan River Trust's responsibilities, management and administration -

(1) Can the Minister describe the full brief of this inquiry?

(2) When will the inquiry with recommendations be completed?

(3) Will the recommendations impact on any other catchment management structures, be they adjacent catchment areas or catchments outside the total Swan River catchment system?

Mr MINSON replied:

I have some pleasure in answering the question and I thank the member for a few minutes' notice of it.

(1) The answer is probably too long to deal with in question time so I will table the terms of reference for the benefit of members. The four key parts of the terms of reference are: The effectiveness of the operations of the trust; the need for the continuation of the functions of the trust; the operation and effectiveness of the Act generally; and the effectiveness of part 5 of the Act relating to development control and section 30(a) of the Metropolitan Region

Town Planning Scheme Act which establishes a formal link between the Swan River Trust Act and the statutory planning process.

(2) It was handed to me in August 1994.

(3) Yes. The inquiry did go considerably outside the Swan River catchment area, and it will be clear to members when they get hold of the terms of reference that the recommendations with regard to part 3 of the terms of reference allow it to do that. I cannot yet inform the House about what effect and impact that will have on total river and catchment management in the State because the recommendations were quite far reaching in their effect. The report is currently with the various government agencies upon which it will impact and I have not yet received their comments, but when I do, I will be happy to table in the Parliament that report and the Government's response to it.

[See paper No 428.]

SEWERAGE TAX - TELEPHONE POLL

510. Mrs ROBERTS to the Minister for Water Resources:

(1) Has the Minister, the Water Authority of Western Australia or any instrumentality of the Western Australian Government recently commissioned a telephone poll to gauge community opinion about a sewerage tax? If so, when was the poll commissioned?

(2) Will the Minister guarantee that his Government will honour the Premier's commitment given to the people only 20 months ago that no new taxes will be introduced?

Mr OMODEI replied:

(1)-(2) I am flabbergasted by the question. Yesterday, the member for Glendalough made some outrageous comments about the possibility of water restrictions.

Mr Ripper: Someone is polling. We want to know if it is you.

Mr OMODEI: Let me answer the question. The possibility of increases in water rates was refuted by me in September and it has been refuted by me continuously since then. I assure members opposite yet again that there will be no increases in water rates. Now we have another strange question.

Mr Ripper: Absolutely none? We will hold you to that.

Mr OMODEI: May I say very clearly, using words of as few syllables as I possibly can, that I am not aware of any telephone poll and I would be very surprised if anyone was telephone polling about a future sewerage tax.

INDUSTRY COMMISSION - ANNUAL REPORT

511. Mr DAY to the Minister for Labour Relations:

Is the Minister aware of the annual report of the Federal Government's authority on microeconomic reform, namely the Industry Commission, and in particular its comments on the new federal industrial relations laws?

Mr KIERATH replied:

I thank the member for the question. I could not believe my good luck

when the Federal Government's Industry Commission report came down. It was interesting because that report is a giant brickbat for Brereton's industrial relations laws. Incidentally, they are the same laws he is trying to enforce on this State. The commission's first criticism was that the new laws give unions too much power. However, that does not come as any surprise to the Government because those laws were drawn up by the unions. In fact, the ACTU drew them up. This Government knows it was only a payback to the ACTU and the union movement for their pushing the Keating Government over the line in the federal election. To be more specific, the report says that although the Industrial Relations Reform Act has opened up opportunities for non-unionised workplaces to engage in enterprise bargaining, the powers granted to trade unions to scrutinise and oppose such agreements could constrain new initiatives.

Several members interjected.

Mr Court: Can they be turned around?

The SPEAKER: Order!

Mr KIERATH: All it does is give me more encouragement -

Several members interjected.

Point of Order

Mr BLAIKIE: Mr Speaker, I draw your attention to Standing Order No 149 which prohibits members from conversing in such a way that it inhibits the person on his feet from speaking.

The SPEAKER: It is correct that members are expected to remain in their seats and that is observed on the majority of occasions. In the last few minutes the problem has been too much noise and it is difficult to hear the person answering the question.

Questions without Notice Resumed

Mr KIERATH: To be quite frank, Mr Speaker, I am flattered by this attention and I hope that members opposite will listen to the next bit.

The commission went on to say that greater freedom for workers to choose their bargaining agent, whether union, staff association or other workplace representation, would facilitate the development of individual workplace practices that better suit employees and employers alike. Does that not sound familiar? It sounds exactly like this State's workplace agreements legislation. I am glad that even the Industry Commission believes that this State's IR laws are a desired alternative. Brereton's laws have been a failure. One thing about Mr Brereton is that he is consistent. He has consistently messed up the federal IR laws. In fact, he made an absolute blunder with them. I agree with the Industry Commission that his laws must change. In addition, he must also change.

The time has come for Brereton to go. He has messed up the IR laws at a federal level. I will not mention what he did with the shipping line strike - it appears that he preferred to go skiing at the time. What has he done with the Civil Aviation Authority? It appears that everything he touches he messes up. I only wish that the Opposition spokesman for Labour Relations was in this House so that we could find out whether this Labor Party supports Brereton. Does the Labor Party support Brereton's disastrous IR laws or does it agree with this Government's IR laws? Let us hear what the Labor Party has to say about it. The day that members opposite come out and say that Brereton must go, is the day that the Government will agree with them for once.

MINING INDUSTRY - BOW RIVER MINE, SITES
Aboriginal Cultural Material Committee Recommendation

512. Mr BRIDGE to the Minister for Aboriginal Affairs:

(1) Why has the Minister steamrolled the Government's own Aboriginal Cultural Material Committee and given the go ahead to mining by Normandy Poseidon at Bow River, south of Lake Argyle?

(2) Is it true that the Aboriginal Cultural Material Committee told the Minister that sites at Bow River are extremely important and that diamond mining should not go ahead?

(3) Is it true that a number of other anthropological reports, going back many years, have confirmed that sites at Bow River are of significant religious and heritage value to the local Aboriginal groups?

Mr PRINCE replied:

(1)-(3) I thank the member for the question. The deposit on which the Bow River mine sits is an alluvial deposit. It was delineated between 1982 and 1986 and the treatment plant was commissioned in 1988 during the term of the previous Government. So far it has produced $220m in export income and it will close in March next year. That will mean that 100 people will be made redundant, among whom will be nine Aboriginal people who have learnt skills through a company sponsored Aboriginal training scheme.

The only highly prospective areas that remain untested and could contain ore reserves to extend the mining operations were the subject of a notice lodged with the Aboriginal Cultural Material Committee pursuant to section 18 of the Aboriginal Heritage Act. Those resources, if they are there, will extend the life of the mine. The Aboriginal Cultural Material Committee has considered that matter on a number of occasions. Archeological and ethnographic sites are involved. The committee gave me a recommendation early in July concerning archeological sites and suggested that I could consent to the disturbance of three of the four sites. I agreed with that and gave that consent.

It met again on 10 August and considered the ethnographic sites that were being proposed. It resolved and recommended to me in an advisory nature as it does, that I not consent to disturb any portion of the site at the time. Under the Aboriginal Heritage Act I am required, as members opposite will know, particularly the member for Kenwick, to consider section 18(3). Not only the recommendation of the cultural material committee but also the general interest of the community must be taken into account. The two sites concerned - they are shown diagrammatically on this map that I am holding up - total approximately 25 kilometres in length and about 1.5 km in width. That is approximately 4 500 hectares. The company sought to do some mining exploration on about 8.5 per cent of that area. I determined that it could explore on less than 5 per cent of the area, which is about 225 ha of 4 500 ha.

The sites have at their centre a limestone outcrop about one metre high. I directed that no work would occur within 100 metres of most of the site and within 600 metres of part of it. I also directed that the company would rehabilitate as far as practicably possible all work it does, to the satisfaction of the Dilduwan Madjang Daburru Aboriginal Corporation - the people of the area. I issued that consent last week. Before making the decision I invited submissions from not only the people represented by the Aboriginal Legal Service but also the people from the company. The decision was not an easy one to make.

The Aboriginal Legal Service then corresponded with Mr Robert Tickner, the federal Minister, who advised me by facsimile on Tuesday that

although he had been asked to do as he did in the case of the crocodile farm - issue a 30 day notice to prevent anything happening - he declined to do so this time. However, under section 13 of his legislation he directed that mediation take place. Mr Tickner advised me this morning that a male mediator, Hon Fred Chaney, had been appointed and a female mediator will be appointed because there are sites of both male and female significance. Consequently I directed the Commissioner for Aboriginal Planning in this State to cooperate with Mr Chaney. As we speak now I think he is being briefed by the Aboriginal Affairs Planning Authority on the matter. As far as the State is concerned every cooperation will be given. I hope that the mediation will result in the matter being resolved. The Aboriginal Legal Service has also taken action in the Federal Court to obtain injunctions against the company and, I understand, against the Government, although papers have not yet been served on me. The matter is capable of resolution. I made the decision based on my view that the two competing interests could coexist given the size of the site.