



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
SECOND SESSION  
1999

LEGISLATIVE ASSEMBLY

Thursday, 24 June 1999

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**THE SPEAKER** (Mr Strickland) took the Chair at 9.00 am, and read prayers.

## EUTHANASIA

### *Petition*

Mr Pandal presented the following petition bearing the signatures of 22 persons -

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 the Electoral District of South Perth request that the House rejects any Bill designed to legalise euthanasia in Western Australia, on the grounds that such a practice devalues human life, and sends clear messages to society - especially the aged - that people are expendable and vulnerable.

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

[See petition No 242.]

## SPEEDWAY SITE

### *Grievance*

**MR MARLBOROUGH** (Peel) [9.03 am]: The issue of the speedway being placed in Kwinana has now reached a ludicrous stage. Last week Mr Mike Baker, the head of the Kwinana Industries Council, advised me that the industries he represents in Kwinana - all of the multinational companies such as BP Oil, Alcoa of Australia Ltd, WMC Resources, Wesfarmers CSBP, Tiwest Joint Venture and numerous other companies - are so dissatisfied with the way the Minister for Planning has handled this issue that as of last week they set about commissioning their own environmental report into the placement of the speedway on the Alcoa mud lakes in Kwinana. So seriously are these companies taking this matter that when this report is completed, it will be sent offshore for further assessment. That is where we are at. Also last week the Kwinana council met with the new peak body covering fire and rescue services in this State, the Fire and Emergency Services Authority. That group advised the Kwinana council - and the Government should listen to this very carefully - that in the event of a major industrial accident, it was unable to guarantee the safe evacuation of people from a speedway built on the Alcoa mud lakes. There cannot be any more condemning opinions of the decision to locate the speedway on the Alcoa mud lakes than that of these two bodies. One represents all of the key manufacturing and resource industries in the Kwinana strip and the other the peak body covering firefighting and emergency services in this State. Both those bodies have said this proposal cannot be allowed to go ahead.

I have predicted for some time that that conclusion would be reached. The evidence of those bodies reaching that conclusion has been before Governments since at least 1992. That is when the Environmental Protection Authority released its bulletin No 627 which laid down guidelines for individual risk and societal risk. Without being too technical, the individual risk is set on a contour which is called the one in a million contour. That simply means that when the environmental processes can demonstrate that there is a risk of more than one in a million of a death within the area of industry, the Government will take that on board when making decisions about its future planning processes and will guarantee that nobody will live full time within that contour and that no future urban development will take place in that area. Added to the individual risk is the societal risk. It has been interesting; the line from the minister's office in the past week has been "There is no definitive science on societal risk; there is no recognised equation of how it works." They may not have worked out an equation but they know what it means. The 1992 EPA document Bulletin 627 says clearly that societal risk should be taken on board by Governments when they consider future planning options which impinge on and are near the heavy industrial estate in Kwinana. It says we should not be making policy decisions which will place people within that societal risk area.

My concern has always been that this speedway impinges on both key principles: Firstly, in terms of individual risk, the length of the runway of the drag races goes inside the existing risk contour; and secondly, societal risk meets all of the criteria which the Environmental Protection Authority has said in its document of 1992 Governments should be concerned about. The Government cannot treat 10 000 people in an open arena, who have no protective clothing, no way of getting inside a building and no training in terms of industrial hazards and problems that may occur in the Kwinana strip, in the same way as it treats the 3 000 workers within the Kwinana strip. They have never been treated in the same way when it comes to managing that risk. The minister has two key problems before him: The Kwinana Industries Council has said that it does not trust his processes and it will undertake, and pay for, its own environmental inquiry, and the Fire and Emergency Services Authority of Western Australia advised the Kwinana Industries Council last Thursday that it could not guarantee the safety of people if the speedway were placed within that location. It is time for the minister, and the Government, to review immediately his position, clear up this matter once and for all and remove the speedway from that location.

**MR KIERATH** (Riverton - Minister for Planning) [9.11 am]: The member for Peel has made a number of points - some good and unfortunately, some not so good. It is important to explain to the House the process we are going through at the moment. It is true that we have earmarked that site for the combined speedway and drag racing facilities. However, there is an ability under various Acts for the Government to give it approval without going through all the assessments. We have

not done that. We have insisted that it go through all the proper assessments; that means it must go out for a public environmental review which the EPA has set at four weeks.

Mr Marlborough: That is far too short.

Mr KIERATH: It is not when the two issues are separated.

Mr Marlborough: It should be expanded to at least three months.

Mr KIERATH: The key area is one of societal risk, which will be the subject of a separate report.

Mr Marlborough: No, it is not. There is individual risk and societal risk.

Mr KIERATH: One minute the member for Peel is quoting the EPA as being authoritative, and the next he is virtually saying that it does not know what it is talking about. The EPA has said that societal risk must be addressed, but it must be a separate issue. It has allowed the Western Australian Planning Commission to address the issue of societal risk. As long as it goes out for public consultation -

Mr Marlborough interjected.

Mr KIERATH: I listened to the member for Peel, and I ask him to show me the same courtesy.

Mr Marlborough: It is not a matter of courtesy.

Mr KIERATH: It is.

Mr Marlborough: Just tell the truth.

Mr KIERATH: I am telling the truth.

Mr Marlborough: I am suggesting you intervened on the EPA process and you told it not to do societal risk.

Mr KIERATH: The member for Peel will not even show me the courtesy that I showed him. I did not interrupt his comments. The fact is that the EPA has assessed it. It has said that the societal risk must be addressed publicly, but provided it is transparent and provided the public have input, the EPA will not make it one of its crucial criteria. It will address all the other issues. I inform the House that there has been some delay. The PER advertisement will go out this weekend and the report will be available from Monday, 28 June. It will be available for four weeks, which period was set by the EPA. The societal risk, which is a separate issue, will come out one week later on Monday, 5 July. Although we do not expect it to be out for a similar period as the PER, if a longer period is required, I am prepared to give the undertaking that the report will be available for a longer period. The issues raised by the member for Peel - the environmental factors, individual risk, noise and the other criteria - will be assessed by the EPA as part of its PER. We must provide a report outlining how we intend to address those issues, and that will be judged accordingly. The issue of societal risk will be the subject of a separate report which will be publicly available. Whichever way we look at it, the key elements mentioned by the member for Peel will be available in the public arena.

I met with the Kwinana Industries Council last week and some of its concerns startled me. If I listened to what it was saying properly, it believed it was putting out poisonous gas which would kill people on a regular basis. I find that completely untenable. The council used the line of the member for Peel; that is, people should be inside when accidents happen.

Mr Marlborough: That is the program that has been in place since the 1990s. Industry would not say that. It is ridiculous to say that industry is putting out poisonous gas on a regular basis.

Mr KIERATH: No, it said that incidents occur on a reasonably regular basis and it wants the appropriate training. It said that in most cases the only way of protection was for a person to get into an enclosed space, whether it be inside a house or a car. The point I am making is that all of those issues must be addressed. If the project cannot meet those requirements, assessments and standards, it will not go ahead on that site. The member for Peel was trying to pre-empt a process that simply has not occurred yet. It is true that all the issues which he raised must be addressed. Satisfactory standards and mechanisms must address all those issues. If they are not addressed properly, the project will not get a tick. I have pointed out that all the issues raised by the member for Peel will be addressed as part of the process.

### **GERALDTON PALLIATIVE CARE SERVICES, FUNDING**

#### *Grievance*

**MR BLOFFWITCH** (Geraldton) [9.16 am]: My grievance is about the funding Geraldton receives for its palliative care, which is totally inadequate. We receive about \$80 000, and we probably need about \$300 000 for the cases that must be attended to. What upsets me, which is the reason for my grievance, is the number of people who work voluntarily at the hospitals. Two types of palliative care occur in Geraldton. The first type is through the Silver Chain Nursing Association. These volunteers will look after people, help them with the housekeeping, shower them, wash their clothes and do many things that cannot be done by someone who is unwell or who is dying of cancer.

Mr Thomas: It is a great service.

Mr BLOFFWITCH: It is an excellent service. The funding for these arrangements is through Silver Chain. It is given funding for a certain number of cases to which it can attend. It is not given sufficient funds in Geraldton because many people are on the waiting list. It is only through volunteers and Silver Chain doing it for virtually nothing that these people

can be attended to. This is a serious problem. Both Geraldton Regional Hospital and St John of God Hospital had an intensive care unit or a unit in which someone could spend his or her last week with a few home comforts. Through working together - I am pleased that they work together - they decided that a new set up would be built in the St John of God Hospital. It is a first-class facility. People who spend time in it speak very highly of it, even though it is usually for their few remaining days. It is a sad thing. Many volunteers help in this area. The funding we receive to run that facility is totally inadequate. I have been told that Geraldton is funded for about 330 bed days a year, whereas Albany gets funding for 352 bed days and Kalgoorlie gets even more funding. As a regional hospital, we are supposed to be looking after the total mid west area, with a population of about 45 000 people, and for some reason the people in our area have a higher rate of cancer than those in any other area in the State. That has been said by doctors in seminars which I have attended. It surprised me when I heard that. It worries me. However, I am still feeling fit, so I am not too concerned about it. Many people are suffering from cancer. I can think of seven or eight people in Geraldton at the moment who are on the critical list because of cancer. Palliative care is supposed to provide a quality service in a home situation. When a lot of pressure is on the family, these volunteers relieve the pressure from the family and give them some respite. The volunteers even give the family the opportunity to have half a day off by coming to the home and sitting and talking with the people who are ill.

Seven or eight months ago, I gave the then Minister for Health, Hon Kevin Prince, an outline of the type of scheme that these services want to institute in Geraldton. Funding of around \$300 000 a year would be needed. Whenever I hear the Commonwealth telling us that palliative care is a major concern and it is putting many more millions of dollars into it, I wonder where all the money goes, because Geraldton certainly does not see any of it. We need a response from the Health Department on this proposition. When I presented this proposition to the then minister, Hon Kevin Prince, he said that that was the very system that was used in Albany. I said that we would use it in Geraldton if we could have it funded. I might add that in those seven months our people have not had an answer. They have not even had anybody come to Geraldton to say whether it is considered to be a great idea, a terrible idea, or whether it will or will not get funding.

I attended the annual general meeting of the Geraldton Palliative Care Service on Monday night, and the feeling was almost total despair with the Government. Despite the overwhelming support from the community, there seems to be very little coming back from government. As a result, I decided I would raise a grievance on this matter. So bad is the funding in this area that the business community has got together and said it will raise \$50 000 to help this palliative care project, and in so doing, it would like the Government to match that \$50 000. With the amount of community and business support, as well as the money from business, it seems ironic that, first, we cannot get an answer to our submission and, second, we cannot get any more funding. Why south west hospitals should be funded for more bed days than Geraldton leaves me absolutely bewildered. I ask the minister to respond and also to think about the \$50 000 that the business community will put into this project.

**MR DAY** (Darling Range - Minister for Health) [9.23 am]: The issue raised by the member for Geraldton is one, as he said, that has been ongoing. It was certainly raised by him and others with my predecessor, the member for Albany, and it certainly has been raised also during my time as Minister for Health.

By way of background, I am advised that the Geraldton Regional Hospital was the holder of palliative care funds for the Geraldton area until 1998-99. Funds were available to purchase up to 300 bed days for public patients in a palliative care unit at St John of God Hospital, Geraldton. In addition to that, \$14 500 was made available to purchase Silver Chain Nursing Association home-based palliative care, which the member for Geraldton referred to. The total funds available for palliative care in the region in 1998-99 were \$105 000.

From the 1999-2000 financial year, it has been agreed with the Geraldton Regional Hospital and the Geraldton Palliative Care Service that funds for the region will be managed by the Geraldton Palliative Care Service and that it will be responsible for ensuring access to both community-based and hospital in-patient palliative care.

As to the number of bed days and the number that is funded for Geraldton, I am advised, without having specific figures, that the number for Geraldton is greater than that for Kalgoorlie but less than that for Albany. Presumably that reflects different demographics or different demands in the particular areas. I am further advised that for 1998-99 it is unlikely that all of the bed days which are available in Geraldton for palliative care will be fully utilised. Therefore, it would be hard to justify an increase in the actual number of bed days funded if it appears that the amount which is funded at the moment will not be fully utilised.

**Mr Bloffwitch:** At the annual general meeting on Monday night the people said to me that they were having trouble letting people go into the beds because those bed days were not funded. Therefore, the minister is getting completely different information from me.

**Mr DAY:** In response, I am happy to have the matter checked further. However, I have been advised that the number of bed days is unlikely to be fully utilised. However, we need to get that clarified and check the comments of the member for Geraldton together with the information which has been provided by the Health Department.

It is important to appreciate that the price per day which has been offered for palliative care was increased from \$250 per day to \$295 per day in accordance with the statewide benchmark price for private sector providers who are admitting public patients. Therefore, that general increase has flowed through as well.

As to the submission from the Geraldton Palliative Care Service and a response from the Health Department, I am surprised to hear from the member for Geraldton that no response has been received, because I have a copy of a letter dated 14 May 1999 from Gordon Stacey, the acting general manager of general health purchasing, in which he has written back to Brother Warwick Bryant, the chairperson of the Geraldton Palliative Care Service, thanking him for the submission of a revised

business plan and also advising that the general health purchasing division of the Health Department will consider this plan and provide a response. Having just discussed the issue with the Health Department, I understand that the submission is being carefully assessed and analysed, and hopefully a response will go back to the Geraldton Palliative Care Service within the next two to three weeks. I will certainly be taking very seriously the issues which are raised.

Mr Bloffwitch: I know. However, I am still saying that we got a letter back thanking us for our submission, and seven months later we still have not had a response.

Mr DAY: It is not correct to say there has not been a response. I think what the member for Geraldton means is that there has not been a definitive answer.

Mr Osborne: The member for Geraldton gave me a lot of trouble last night when I was trying to make a speech.

Mr DAY: And the member is not even a minister. The fact of the matter is that the issue is being assessed. I know that the Health Department is dealing with a range of business cases at the moment for the funding of non-government organisations which provide services in the whole health sector. That includes the submission from the Geraldton Palliative Care Service, which is being carefully considered. I hope it will have a response advising the outcome of its submission within the next two to three weeks.

### **DISABILITY SERVICES COMMISSION, KALGOORLIE-BOULDER**

#### *Grievance*

**MS ANWYL** (Kalgoorlie) [9.29 am]: My grievance is to the Minister for Disability Services. A lady in my electorate, who I will not identify, and who is in her late seventies, cares for her 41 year old daughter, Jenny, who has a profound intellectual disability. Rather than name her now I will give her name to the minister outside the Chamber. She has a very serious and possibly terminal illness. It is not the first time she has been diagnosed with the illness.

Mr Omodei: Is it the mother who has the illness?

Ms ANWYL: The mother is seriously ill and her 41 year old intellectually disabled daughter lives with her. No accommodation is available in Kalgoorlie-Boulder for people with intellectual disabilities, other than the limited accommodation around the community provided by Homeswest. I am sure that this is a major issue across the State because, as we all know, we have an ageing community. These parents are reaching the stage at which they are becoming frail and are no longer able to care for their disabled children in their homes. We need a cluster arrangement of single unit accommodation with carers, that can cater for parents caring for people with intellectual disabilities. However, not every disabled person needs a full-time carer. I am aware of a 35-year-old man who is profoundly intellectually disabled and whose father has recently passed away. He is being cared for on a full-time basis by a variety of carers.

The real issue is that an asset exists in our community which has been devoted to disability. I am referring to Respite House in Burt Street, Boulder. During question time on Tuesday, 15 June, more than a week ago, I asked what would happen to the \$300 000 or so that will be realised from the sale of Respite House. Two issues are involved in the situation of the seriously ill lady and her daughter, Jenny. Respite is a major problem. Since Respite House closed more than a year ago, a dedicated respite facility has not been available. I have made my view extremely clear to the Disability Services Commission - I wrote to the chairman of the board, Mr Barry McKinnon as recently as 29 May this year. These people need a purpose-built dedicated respite facility. Rather than worrying about what we do with the funds from the sale of Respite House, we should not even sell it; we should build a dedicated facility on the land. The land could be subdivided because almost two hectares of land are involved.

I put this to the Disability Services Commission some time ago. I was informed this morning that some Disability Services Commission staff who work in Perth are saying that the member for Kalgoorlie agreed with the closure and sale of this facility. I resent that statement, if it was made, because it is untrue. When I raised the idea that we could use the land to rebuild a dedicated facility, possibly with some cluster unit accommodation nearby for these adult intellectually disabled, I was told that due to native title implications, it could not be done. However, the land will be auctioned and there is no sign of native title considerations now.

To be fair, when I asked the minister about this issue, he said he would look into it. However, I have not heard from him. He said that the usual procedure is to defray the funds towards the Disability Services Commission's general costs. That is not good enough. More than 150 disabled people in Kalgoorlie-Boulder are on the books of the Disability Services Commission. The area has an acting coordinator. It is supposed to have two local area coordinators; it has only one and that person will be leaving shortly. If a permanent coordinator is not appointed shortly, difficulties will arise. Those local area coordinator positions must be filled.

Recently Jenny, who, as I said, is 41 years old, had to spend a weekend in the Kalgoorlie Nursing Home because no other appropriate respite facility was available. Some families prefer respite care to be undertaken in their homes and some want the disabled person cared for out of the home so that the family can enjoy the family home with some respite from the rigors of 24-hour care.

At present a hospice designed for terminally ill people is being used for some respite care. It has only two bedrooms so no more than one child and one carer can be housed there at the same time. The whole idea of having a respite house was that disabled children, whatever their disability, could have some interaction and socialisation with each other. We need a dedicated facility. The lack of carers is an ongoing problem in Kalgoorlie-Boulder.

I am not criticising the volunteer community organisation known as the Goldfields Individual and Family Support Association for being unable to continue running that facility. GIFSA would like to see a dedicated facility built in Kalgoorlie-Boulder. I have consulted widely with parents of disabled dependants, of whom many are now adults. It is universally acknowledged that demand exists for such a facility. An urgent allocation of funds is required to undertake a proper audit of the needs of those 150 disabled children's families. It has not been done, but we cannot expect a volunteer group to do it. I want to know whether those funds will be reapplied. I would rather see the sale not proceed and the land used or subdivided to develop accommodation and adequate respite facilities in my electorate.

**MR OMODEI** (Warren-Blackwood - Minister for Local Government) [9.36 am]: I thank the member for Kalgoorlie for the notice of the grievance and I will follow up the situation of the mother and her 41 year old daughter, if the member gives me her name. I recall the member's question without notice about Respite House to which I responded. As I promised, I will get all the detail on the situation. We need a broader picture of the situation in Kalgoorlie. One hundred and four people who are eligible for disability services living in the goldfields are registered with the Disability Services Commission. There are 50 people in Kalgoorlie, 37 in Boulder, 10 in Kambalda, one in Coolgardie, one in Laverton, two in Leinster, one in Leonora and one in Menzies. Of those, 104 are registered DSC clients. Only 16 live at home with parents or carers who are over 50 years of age. The 16 registered DSC clients access a variety of services in the goldfields. Some receive services from more than one provider; for instance, five are employed at Activ Industries on either a part-time or a full-time basis. Three receive post-school options funding through the DSC for community access programs. Three have been allocated aged care packages through Anglicare Homes which provides approximately 10 hours a week personal care and community access services. One accesses the Eastern Goldfields Community Centre for day activities and four have secured open employment on a full-time basis. Two receive community access and respite services from the Goldfields Individual and Family Support Association, three have been allocated substantial amounts of money through the DSC accommodation support funding process, and two of the 16 do not engage in formal day activities at all; they receive no formal services. These people are independent and have never requested services from the DSC, although the local area coordinator keeps in regular contact to determine whether they require further services.

Adults with intellectual disabilities and their parents or carers, who live in the goldfields, also have access to a range of formal and informal services funded from a variety of sources. The DSC has three local area coordinators, although one has left, but I understand the position will be filled in the near future. Their job is to contact people with disabilities and their families to assist them to establish appropriate support options. Alternatively they can purchase the services they require. During the past six months a number of changes have occurred in the local area coordination staffing in the goldfields. As I said, staffing arrangements will be stabilised over the next few months.

The amount of \$323 000 recurrent funding is granted to people with disabilities and families or carers through the local area coordinators to fund services, and a further \$61 000 is granted to young adults through the DSC post-school options program. GIFSA receives recurrently \$141 804 from the DSC to provide respite and other forms of assistance to families. An additional \$60 000 is provided to this service from the Commonwealth.

On 22 June, the board of the Goldfields Individual and Family Support Association met to consider all of the applications for respite support received over recent months. In total, 29 applications for respite funding were received from the 50 registered members of this organisation. It is anticipated that all 29 requests for funding will be met by GIFSA. Therefore, there is no identified unmet demand for respite or family support services at this time. Obviously the member for Kalgoorlie knows of someone, and I will follow that up with her. The commonwealth Carers Respite Information Centre is run by the Australian Red Cross and provides a range of flexible respite opportunities for families. The Golden Reflections Hospice provides respite services. CentreCare provides counselling services for people with disabilities and their families. The Kalgoorlie Nursing Home provides short term accommodation and respite. The Anglican Home for the Aged provides flexible respite care options. The Silver Chain Nursing Association provides personal care, nursing and domestic services and Fara Inc provides financial counselling and budget advice for people with disabilities. Homeswest has also been responsive in meeting the needs for housing of people with disabilities and their families. The Goldfields Community Centre is funded through the home and community care program, and local government provides day activities and other forms of support for people with disabilities. Career Contact Incorporated provides support for employment for adults with disabilities; and open and supported employment provides respite effect for parents. In addition, the Disability Services Commission also funds a range of visiting statewide services which can be accessed in the goldfields. They include the Association for the Blind, the Independent Living Centre, which provides equipment, the Cerebral Palsy Association of WA Ltd, the WA Deaf-Blind Association, the Australian Council for Rehabilitation of Disabled and the WA Disabled Sports Association. The eastern goldfields volunteer task force which is funded through HACC provides a range of services to the families, including transport assistance and home maintenance.

The goldfields region is very well resourced when compared with other areas of the State in terms of the range of services available to people with disabilities and their families. Notwithstanding this, I am conscious that there is always more that can be done to improve the quality of life for those people with disabilities. While we can be proud as a State of our initiatives when implementing strategies for the needs of these people with disabilities, and in rural Western Australia as well, I will continue to advocate to the Commonwealth for a greater share of funds.

**Ms Anwyl:** Why are you selling off our facilities?

**Mr OMODEI:** It was agreed that Respite House be sold off. When I responded to the member for Kalgoorlie in question time, I said that funds from the sale of assets usually go to defray debt. In this situation, those funds will be spent delivering further services in the goldfields. I need to verify that, and I will do that in writing to the member. I am sorry I have not got back to her. I gave an instruction when the member asked the question and I presumed her question was being responded

to through the Disability Services Commission or my office, as normally occurs once a question is raised. If that has not occurred I will follow that through. I will also follow up with the member the name of the person who is in need and attempt to ensure that person is looked after in the way they would expect to be.

## MINING INDUSTRY, CHALLENGES

### *Grievances*

**MR MASTERS** (Vasse) [9.43 am]: I direct my grievance to the Minister for Resources Development. Over the years the mining industry has been good to me as a geologist but, more importantly, it has been good to Australia, providing us with a standard of living and a quality of life that is the envy of just about every other nation on earth. Today the mining industry is facing a number of problems and challenges. These include native title, low commodity prices, the Asian economic downturn and cautious investor support for mineral exploration. One consequence of these problems is that there is an unbelievably high unemployment rate among the professional geoscientists of Australia. These are the tertiary trained geologists, geophysicists and geochemists who are largely responsible for finding the mineral deposits that are hidden beneath the surface of the earth.

One local company which places mining professionals into jobs has over 1 000 geologists on its books. Not all are unemployed - some are; some are under-employed, some are undertaking consulting work on a part time basis and some are in jobs they would not choose to stay in if they had a choice. The Association of Mining and Exploration Companies has reported that there may be as many as 1 500 geoscientists unemployed in WA as a whole and the Geological Society of Australia has estimated that throughout Australia in the order of 50 per cent of geologists are unemployed. This equates to about 4 000 geoscientists overall looking for full time employment in this country.

This picture may be pretty bleak for the geoscientists of Australia. However, their unemployment has a number of related consequences. As expenditure in the mineral exploration industry declines, so does the number of drilling rigs engaged in contract drilling. For example, the Geological Society has estimated that 35 per cent or about 350 rigs and 1 200 drillers are currently lying idle around Australia. In turn, laboratories that would be normally analysing the samples generated by these drilling rigs are themselves experiencing a major downturn in the order of one-third of their normal business. While all of these are serious problems, they are mostly of a relatively short-term nature. It is the hidden long-term implications that should set the alarm bells ringing. The longer that the geoscientists of this country are not being gainfully employed in doing what they do best - namely, finding mineral deposits - the greater the likelihood that they will either leave Australia to work overseas or stay in Australia and retrain, taking on work in industries other than the mining sector. I estimate that slightly less than half of the geologists with whom I graduated in 1971 are no longer in the minerals sector.

If and when the upswing in commodity prices occurs, the mining industry will find that the experienced geoscientists upon which it is so dependent are not available for employment in Australia. As well, if we do not explore for mineral deposits today, we will not know of the deposits that are essential to sustain mining tomorrow. When the current industry downturn turns around, we will face two years, three years, or even longer periods in which few new mineral deposits have been located and current mines will have exploited their known reserves and will close down. Most of WA's gold mines have a proven life of fewer than five years. Yet gold is our most valuable mineral export, and I suspect it is also our number one employer and economic distributor. A two, three, or four-year period without significant mineral exploration will mean that up to half of currently operating gold mines will run out of ore and close down if no new gold resources are located.

I accept that the minister has little if any ability to cause commodity prices to rise or to lift the countries of south east Asia out of their economic woes. The minister can, and I am pleased to say regularly does, talk about WA and its mining sector in positive, confident terms. This will boost the confidence of investors. The consequences of native title on mineral exploration cannot be overestimated. I urge the minister to continue his efforts, along with the WA State Government, to find a workable resolution to this.

The State and Territory Governments can make a huge difference in one other area. I refer to a proposal put to me by George Savell of the Association of Mining and Exploration Companies. AMEC has suggested that with a contribution of \$2m from each State and Territory Government for each of the next three years, matched by an equal contribution from the Federal Government, 500 geoscientists around Australia could be employed on a full time basis to do the work which I am just about to describe. In every mines department or geological survey around the country, there are several hundred thousand reports that have been submitted by mineral exploration and mining companies describing the results of their successful and more often than not unsuccessful exploration ventures. These reports are mostly very technical, covering geological mapping, drilling and sample analytical results, geochemical and geophysical surveys, various remote sensing technique and other methods for exploring for or evaluating mineral prospects or exploration concepts. Many of these reports contain extremely important information of great value to the mineral exploration side of the mining sector. However, the reports are rarely collated or presented in a form that allows their information to be readily accessed and used by third parties.

AMEC is proposing that these reports be analysed and summarised, and then presented back to the mining industry. Therefore, when the next upturn in the industry occurs, companies will be able to easily access the data collected over 100 years which already exists in geological survey libraries, thus speeding up a regularly used exploration tool which is usually slow and time-consuming. If implemented, this three-year proposal will reduce by at least one year the lag which would otherwise occur between the start of an upturn in the mineral industry and the generation of high-quality mineral exploration targets. The advantage to Australia is that we will be at least one year ahead of other countries, such as South Africa, the USA and Canada which are also suffering from the downturn that we are currently experiencing.

Will the minister please continue his work on native title and maintain his verbal support for industry. I hope he will give consideration to the AMEC proposal.

**MR BARNETT** (Cottesloe - Minister for Resources Development) [9.52 am]: It is difficult to respond to the grievance only because I agree with everything the member said - I wonder what I can add! All people associated with the industry are concerned about the poor employment prospects for geoscientists at present. The commodity price downturn has been the major cause, compounded by native title issues.

Regarding the commodity price cycle, we are fortunate in that Western Australia has a range of commodities with a level of value-adding in what is sold on international markets. Even during the Asian downturn, not all commodity prices have moved downwards. In that sense, I am sure the member will agree that our mining resources industry has greater resilience than it had 20 years ago. It has greater depth and breadth. I take some encouragement that we have seen oil prices creep up to the \$18 a barrel mark. If it is in the range of \$16 or \$20, the oil companies here do quite well. When prices go down to \$11 or \$12, as they were not long ago, the sector is in crisis. We hope oil prices will stay at about \$18 or \$20 a barrel, which is important.

We have seen some positive movement in nickel prices, and alumina and aluminium metal prices have also strengthened. It is not all bad news. The gold sector has experienced a \$A100 an ounce drop in the last seven or eight months, and faces a continuing effective cap on prices because the Central Bank is selling gold. One cannot see any short-term kick up in the gold price, but I remain optimistic about gold in the long term. Central Bank selling will occur, and I suspect that as Asian economies recover, private purchasing and Central Bank purchasing will occur in Asia to provide a stronger base to their currencies and their store of wealth. They were exposed. When confidence declined in those countries, they had no strength underlying their currency values.

Mr Masters: How do you see the value of the Australian dollar over the next year or two?

Mr BARNETT: My judgment is that it will slightly appreciate over the coming years. One could argue that even now the Australian dollar is undervalued. My guess of the true long-term value of the Australian dollar is about US70¢.

We have seen the worst of it; we are starting to come out of it. The long-term trend is for a decline in real prices of mineral commodities, and that pattern will probably continue. We have seen production decline in North America, and Africa may have problems, but other producer nations are emerging, especially in South America. It is a highly competitive industry. We have about 300 commercially producing mineral and petroleum product projects in this State, which makes Western Australia the world centre for minerals and an important and emerging centre in petroleum.

The State Government is conscious of the education needs of the industry. As the member is aware, the Government has been working with the industry and the university sector in developing a centre of international standing in mining and petroleum education. That will have spinoffs down into the training sector as well. The State Government has allocated \$1m to that proposal. We have a great opportunity to become a world centre for mining and geoscience education taking the best of the faculties of the component universities. The Colorado School of Mines and the Imperial College, which were traditionally at the centre of the industry, do not have the international pre-eminence they once enjoyed. Therefore, a vacuum has occurred providing an opportunity for us to develop the education side of the industry.

Native title is having a dramatic and adverse effect on exploration. Whatever one may feel about the rights of indigenous people to land, the ability to provide payment, compensation or whatever it might be called can only occur at the stage of the development of a commercial project. It then depends on the financial nature of the project. To expect negotiation, agreement or compensation during the exploration process cannot be borne by the nature of the project and the nature of the participants; that is, a large number of small to medium exploration groups are involved. From my point of view, the most significant change needed with native title, which arguably can be done by agreement, is to get the right to negotiate process out of exploration activity. If exploration activity is conscious of heritage and cultural issues and common courtesy in making sure communities are not disrupted in any way, and it is carried out in an environmentally responsible manner - which tends to happen - we will have less of a problem. The right to negotiate, although it is a cumbersome process, should come into effect when a deposit is found and the project is in the developmental stage. I am optimistic that some maturity will come into the native title process in a couple of years. Agreements will be made over exploration and the right to negotiate issues.

Native title, difficult as it is, probably in the long run of history will be seen like some of the environmental debates of the 1960s and 1970s. Ironically Australia is dealing with native title in the 1990s, and most other developed nations dealt with the issue in one way or another about 100 years ago. It has arrived - we cannot pretend to be surprised by that. However, many decisions made are entirely confusing and have not helped to resolve the issue. The industry will internalise it in time, and the legislative procedures need to be simplified. We hope we can reach agreement on exploration activity.

The Commonwealth Government's taxation changes are not supportive of the industry at all. It gives me no pleasure to say that the Federal Government has no mineral resources and petroleum policy; it is infatuated with the needs of the service industry and is not concentrating on mining and petroleum resources.

The SPEAKER: Grievances noted.

#### **ACTS AMENDMENT AND REPEAL (FINANCIAL SECTOR REFORM) BILL 1999**

*Returned*

Bill returned from the Council without amendment.

**JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION***Forty-first Report*

**MR WIESE** (Wagin) [9.59 am]: I present for tabling the Joint Standing Committee on Delegated Legislation report on Road Traffic (Licensing) Amendment Regulations 1999, and Road Traffic (Vehicle Standards) Amendment Regulations 1999. I move -

That the report be printed.

[See paper No 1051.]

This is the forty-first report the committee has put before Parliament. In considering the road traffic licensing regulations and vehicle standards regulations, we are dealing with immobilisers. The committee in its deliberations determined that the regulations are within power, and has resolved not to recommend disallowance.

The committee brings the report before Parliament to highlight some issues of importance. There were three issues of concern identified by the committee: Firstly, the testing and approval process for immobilisers; secondly, the training and qualification requirements of the people who will be fitting the immobilisers; and thirdly, the apparent lack of accreditation of the installation training course. The committee received submissions and heard evidence from Department of Transport officers and also reviewed a letter from the Minister for Transport, Hon Murray Criddle, in response to matters put to him by the committee. All of those documents are annexures to the committee's report.

The licensing and vehicle standards regulations that we are considering are part of, and very much integral to, the regulatory scheme dealing with immobilisers. The installation of immobilisers, members will remember, was first introduced as a voluntary scheme back in 1997 and included a \$30 rebate to motorists who voluntarily fitted an immobiliser. In February of this year, that rebate was raised to \$40. The vehicle standards regulations that we are dealing with will become operative from 1 July this year. These regulations will require an immobiliser of a type approved by the Director General of Transport to be fitted to all types of motor cars, as detailed in the report. Anybody wishing to sell or transfer a motor vehicle must show at the time of application for a licence for a vehicle or the transfer of the licence that an immobiliser is fitted to the vehicle. Exceptions to that requirement for an immobiliser are outlined in the report.

The committee first considered the regulations in April 1999. It made a decision to call the Department of Transport personnel before the committee to address its concerns. Much of the material and comments provided by the departmental officers are outlined in various parts of the report as it deals with the matters of concern which we raised. The first of the concerns dealt with the testing and approval process for immobilisers. There appeared to be no statute-based approval process for immobilisers beyond certification by one of the State's insurers. In fact, immobilisers are required to be tested and certified by the Royal Automobile Club of WA. That certification process involves only the testing of the immobiliser in the vehicle against standards that were created when the voluntary scheme was introduced in 1997. The RAC will continue to do that; however, there is no Australian Standard to which the RAC works. The RAC tests these immobilisers to ensure that they have two points of immobilisation, have black wires, do work in practice and things of that nature. That is the only testing process that immobilisers undergo to become certified. The committee, in dealing with the issue, states in the report that if the Government is to make it compulsory to fit immobilisers, the scheme itself should at the very least meet an Australian Standard requirement and should undergo a statutory certification process. The committee believes that approval by the RAC is not sufficient.

The committee has concerns about the training and qualification requirements of the persons certified to fit immobilisers. The issue of whether it was correct for the installers to be appropriately licensed and approved was raised with the Department of Transport personnel who gave evidence and, of course, it is. The licensing and approval requirement, however, is a bit airy-fairy. The installers must meet certain standards laid down by the department. The personnel from the department indicated that they are in the process of developing a couple of education training programs which will provide an alternative way for installers to be trained and certified. In future there will be a training program comprising a practical component. Quoting directly from the evidence of one of the officers, he said that the department needed to do something of that nature to cover the expected large jump in the number of installations after 1 July.

The current qualification requirement is for the proprietor of a business installing immobilisers to have at least two years experience in the industry. In the course of questioning by the member for Peel, it became apparent that the installers did not even need an automotive electrical qualification to fit an immobiliser, although the departmental officer indicated that an automotive electrician would be a good candidate to do so. Currently, a person may become accredited if he has worked for two years under supervision, or has undergone a 40 hour theory course, worked for another 40 hours under supervision and completed at least eight installations successfully. That is the standard currently required for someone to become an authorised installer. The committee expresses real concerns that in a compulsory immobiliser scheme the installers may become qualified by completing 40 hours of theory and 40 hours of practical experience; in other words, within two weeks a person with no previous automotive electrical experience can become an immobiliser installer. Members will appreciate the potential problems that situation could create.

In relation to the third point, the accreditation of an installation training course, at the stage of the initial voluntary scheme and at the time when this new scheme was introduced, there was no accreditation course. Currently in this State the training is reluctantly undertaken by one of the State's immobiliser installers, Marlows Ltd, and that is the only training which is available for installers in Western Australia. Marlows has opened its doors to anyone who wishes to participate as it believes that it is important for the future of the industry that someone should provide this type of course. At the time we took that evidence it was not an accredited course but Marlows was seeking Australian Standard accreditation for that immobiliser

installers' course. Subsequent to our taking evidence, Marlows has become accredited as an Australian provider, so we do now have that situation. Marlows did not want to be in the training business. It was trying to get someone else to take over the training business and was doing it only on the basis that if there were a compulsory immobiliser scheme, the success of its industry to a large extent would depend on the number and quality of installers. The Department of Transport people indicated that they were trying to get other accredited courses put in place. That has not yet occurred. The committee brought these matters to the attention of the minister, and the minister's response to the committee, which addressed the matters raised, is attached as an annexure to the report. The minister indicated that the Transport Department has now become involved in the preparation of an Australian Standard for immobilisers. That standard is approaching conclusion and is expected to be ready for publication in late 1999. At present there is no Australian Standard for the installation of immobilisers.

The committee is satisfied that the Marlows course is accredited. We are concerned that the number of accredited or qualified installers may not be sufficient when this compulsory scheme commences on 1 July, which is about one week away, and we are concerned that the Marlows course is the only accredited course that is available. The Minister for Transport's letter dealt with the concern about the development of an Australian Standard and indicated that progress is being made on that matter, but the committee concludes with regard to the two other concerns that it has noted that the Road Traffic (Vehicle Standards) Regulations do not specify that approved immobilisers be installed by approved installers, and this would seem to be a glaring weakness in the current regulatory system that is in place.

Mr Bloffwitch: The problem is that if you did that, a person could not install an immobiliser himself on his own car.

Mr WIESE: Absolutely. We also express the concern that the regulations do not include any minimum qualification requirements for approved installers. I neglected to mention one very pertinent point: The accreditation processes require that a person who undergoes a course of training must have a police clearance. Steps have been taken to ensure that appropriate persons undertake these courses, and I support that move. The committee also raised the second issue that still has not been dealt with; that is, whether there is a sufficient number of registered training providers to train the installers, because at present Marlows is the only course provider; no TAFE or industry course is available. We are concerned that that is the case and hope that situation will be remedied in the near future.

While the regulations are within power and we strongly approve the steps that have been introduced in these regulations, which will ensure that immobilisers are installed in the majority of motor vehicles within Western Australia, and it is hoped that will be achieved over the next five years, the matters which we raised with the minister and which we now raise in this place should be of concern to all members, and I trust steps will be taken to address those matters in the coming months.

Question put and passed.

## **PLANNING APPEALS BILL 1999**

### *Second Reading*

**MR KIERATH** (Riverton - Minister for Planning) [10.15 am]: I move -

That the Bill be now read a second time.

From the time when town planning legislation was brought into operation in Western Australia in 1928 through the Town Planning and Development Act, planning appeals to the Minister for Planning have been an integral part of planning processes and practice. In that Act, a Town Planning Board was established to undertake a range of duties, including the control of the subdivision of land for the first time. Decisions made as part of that approval process were open to appeal to the Minister for Planning.

The Town Planning and Development Act also introduced provisions for local governments to prepare town planning schemes through which the control of land use and development could be exercised. While appeal provisions within those schemes were not mandatory, there was a general perception, supported by common planning practice, that a right of appeal existed against any decision made by the local government if the decision involved the exercise of a discretionary power.

In 1963, the metropolitan region scheme became operative by virtue of the provisions of the Metropolitan Region Town Planning Scheme Act 1959, introducing within the Perth metropolitan region a regional level of development control exercised conjointly by the Metropolitan Region Planning Authority, created by that Act, and by metropolitan local governments under delegation arrangements set out in the scheme text. Appeal rights to the Minister for Planning formed a part of that scheme text against decisions made exercising the discretionary powers of that scheme. The existence of planning appeal rights arising from decisions under local government town planning schemes was clarified in 1983 by the insertion of section 8A of the Town Planning and Development Act. Since those times additional rights of appeal have been created against most decisions made by the respective decision-making authorities responsible for making decisions under the provisions of the Strata Titles Act 1985, the East Perth Redevelopment Act 1991, the Subiaco Redevelopment Act 1994, the Heritage of Western Australia Act 1990 and the Western Australian Planning Commission Act 1985.

Until 1970, the only avenue of appeal was to the Minister for Planning, but some disenchantment with the appeal system at that time, based on the view that decisions were being made for political reasons and not according to sound town planning principles, and that the appeal processing procedures were not open and transparent, led to the creation of a Town Planning Appeal Court as an alternative to the ministerial system; an appeal to one extinguishing the right to appeal to the other. In the same amending Act of 1970, provision was also made for the establishment of a Town Planning Appeal Committee to assist the minister with the investigation of appeals to provide him or her with the facts of each case and with recommendations about how they should be determined. The Town Planning Appeal Court operated from 1971 to 1979

and did not prove to be a very attractive alternative to the ministerial system as, during that period, it dealt with only some 30 appeals, whereas the ministerial system handled some 3 000 cases. Each appeal was heard before a Supreme Court judge appointed for the purpose, with two other members of the court, one each appointed by the parties. The process proved to be cumbersome, legalistic and not user-friendly.

The Town Planning and Development Act was again amended in 1976 to abolish the Town Planning Appeal Court and to replace it with a Town Planning Appeal Tribunal with the objective of reducing formality and providing greater freedom and flexibility in the approach to planning appeal determinations. The provisions of the 1976 Act were, in fact, not proclaimed until 1979 when the tribunal came into operation under the chairmanship of Mr David Malcolm QC, as he then was. The tribunal has three members appointed: One a person having legal training with eight years' experience, who acts as chairperson, another a person having experience in planning, and the third a person having experience in public administration, commerce or industry. Deputies are appointed to each of the three members to cover periods of absence as all were, and still are, part-time appointees. Temporary appointments can also be made.

The tribunal, like its predecessor, has also not enjoyed significant patronage in terms of appeal numbers, with an average of less than 10 per cent of the total number of appeals being lodged there, and the balance, around 700-750 per annum, passing through the ministerial appeal system. The tribunal, which still conducts itself with some regard for legal form and procedure, tends to attract those issues where points of law need to be discussed, such as jurisdictional issues and the interpretation of law, whereas the vast majority of appeals are determined by the Minister for Planning with advice from members of the Town Planning Appeal Committee with, where necessary, legal advice being provided on points of law if they arise.

Procedures observed by the two alternative appellate agencies have differed significantly over the period of their joint operation. The tribunal is required by the Act to hold hearings which are conducted in a manner very similar to a court hearing most frequently with advocates and with expert witnesses being called and cross-examined. Decisions usually contain a detailed review of the facts of the case, legal argument - which has become increasingly dominant - and the planning principles elicited from the presented evidence. By contrast, the ministerial system has traditionally involved the allocation of an appeal case to one member of the Town Planning Appeal Committee who confers with one party and then the other, usually independently of each other, contacts any others who appear to have a significant interest in the outcome and prepares a report and recommendation for consideration by the minister. Those reports are presented by two or three full-time appeal committee members in the appeal office to the minister who makes his or her decision in consultation with them. Of more recent times, the full time appeal committee members have held a preliminary meeting before presenting the report to the minister such that a consensus of professional opinion can be provided on each case.

In early 1997, the tribunal introduced a system of mediation for planning appeals, involving mediation hearings such that the parties might be brought together to discuss the appeal to determine whether it can be resolved, or partly resolved by mutual agreement. This process has met with some success in that the number of appeals to the tribunal increased to 91 in 1998. Some criticisms of the system have also been voiced, principally by respondents to appeals who feel that undue pressure is applied to secure a result. Mediation in the ministerial appeal system was introduced in September 1998 using hearings but expressly seeking to avoid any sense of coercion and, therefore, the same sort of criticism as levelled at the tribunal.

Review of the planning appeal systems: A number of factors point to the need for a change in the way planning appeals are investigated and determined. There are the increasing criticisms of both of the existing alternative appeal systems for different reasons, the consistent rise in the number of appeals being lodged and the capacity, in the case of ministerial appeals, for one person to give sufficient and fair consideration to each case and greater demands being made for more detailed reasons for decisions not only by appellants but frequently by others who believe their interests have been adversely affected.

The criticisms of the two existing appeal systems of recent years precipitated my appointment of Mr Rod Chapman to undertake a review of the appeal systems and to make recommendations for change as appropriate. He presented his report entitled "Review of the Town Planning Appeal System in Western Australia" in August 1997 and that report was tabled in this Parliament in September of that year. Mr Chapman identifies the criticisms of the present ministerial appeal system as a perception that the minister may not be impartial and the process lacks transparency because neither side knows the case presented to Town Planning Appeal Committee members during the investigation. The tribunal on the other hand was criticised for the intimidatory nature of its procedures, the legal costs involved and the length of time taken for a determination to be given. The Planning Appeals Bill 1999 complemented by the concurrent Planning Appeals (Transitional and Consequential Provisions) Bill 1999 is based on the findings of that review. There is a need, in the Government's view, for a new appeal system to be established removing the criticisms of the present dual system and restoring the faith of the planning profession and the community generally in the way planning appeals are decided.

The Bill: The Planning Appeals Bill 1999 and the Planning Appeals (Transitional and Consequential Provisions) Bill 1999 provide for the abolition of the tribunal and ministerial planning appeal systems, replacing them with a single entirely new system. This new system will not materially affect the manner in which appeals arise or are lodged but will substitute a new process by which they are to be handled and determined.

Part 1 - Preliminary deals with the short title of the Act, its commencement by proclamation and the interpretations.

In Part 2 - Appeals there are six divisions; division 1 relates to the making of an appeal and deals with the ways in which appeals arise which have already been described and the manner in which they are to be submitted. In the proposed system, appeals are to be lodged with a Director of Planning Appeals who with the assistance of a community representative, a

registrar, a number of professional and experienced assessors and necessary staff will arrange for the appeals to be processed and determined. The qualifications and experience of the director and the assessors will be described later.

There is a presumption in the Bill in favour of mediation as the first process by which each appeal should be determined. The appellant and the original decision-making authority, after it receives a copy of the appeal, may make submissions to the director about whether or not the appeal should be set down for mediation. Each appeal is to be set down for mediation unless the director, having considered any submissions, decides that mediation would be inappropriate because of the subject matter of the appeal, or it would be impractical or there would be no reasonable prospect that any of the issues would be resolved by mediation. If an appeal is not set down for mediation, the director must set the appeal down for investigation. In either case, the parties are to be advised of the director's decision.

Division 2 deals with the mediation process. If an appeal is set down for mediation, the director appoints one or more assessors who will hold a hearing at an arranged time, date and place and attendance at that hearing by both parties is obligatory to ensure that the mediation process has a reasonable prospect of commencement. The assessor may require the parties to produce documents, answer questions put by the assessor or attend a meeting with the assessor either alone or with another party. The obvious objective is for the assessor to bring the parties together, facilitate discussion and seek a resolution if at all possible. Mediation may be terminated by the assessor with agreement, if a party fails to comply with the assessor directions, if a party is no longer willing to participate in the mediation process, or if there is no reasonable prospect of agreement being reached. If agreement is reached, it is to be signed by both parties and sent to the director who is to review the agreement. Agreements will normally be confirmed by the director unless there is some serious flaw. If confirmed, the agreement becomes the decision on the appeal. If mediation is unsuccessful, the appeal is to be set down for investigation by a different assessor unless the parties agree that the mediating assessor can continue with the investigation. Material gathered at mediation is inadmissible in an investigation unless the parties otherwise agree.

Division 3 sets out the way the investigation of appeals is to occur. The director is to assign an appeal for investigation to one or more assessors. For some specific types of appeal, the director is required to appoint assessors having special expertise in particular fields. For example, for appeals against environmental conditions imposed through the planning process, an assessor having expertise in environment science is required to be appointed together with one other assessor. Similarly for heritage matters, three assessors are required, one having expertise in heritage matters, one having expertise in the law and one other. If assessors become unavailable to complete the investigation, the director is to appoint another. Where the subject matter of appeals affects the interests of other government agencies, there is a requirement on the registrar to notify those agencies and invite submissions on the appeal; for example, the Minister for the Environment, the Heritage Council and the East Perth or Subiaco Redevelopment Authorities. Submissions so received are to be made available to the parties. The purpose of the investigation is to gather sufficient information to enable a proper decision on the appeal to be made. Assessors may inform themselves in any manner considered appropriate including the assessment of written representations, holding discussions with the parties, witnesses, experts or others, conducting hearings or inspecting properties, or any combination of those actions. Generally, hearings will not be in public and cross-examination of participants will not be permitted unless the assessor determines otherwise; the objective being to get to core planning arguments of each case with minimum procedure.

Assessors must have regard to all matters relevant to an appeal including generally accepted planning principles, partial agreements reached at mediation, any submissions made by the parties and others, any relevant town planning schemes, orders, statements, policies and plans, and any matters relating to heritage, the Swan River Trust, and the East Perth or Subiaco Redevelopment Authorities as appropriate. He or she is not confined only to the issues raised in the Notice of Appeal. Assessors are to be empowered to require any person to attend upon, or provide information to the assessors, produce documents or other material relating to the appeal and to give evidence on oath or affirmation and to answer any relevant questions. They may also administer and examine any person under oath or affirmation, inspect, copy and retain documents or other material produced to the assessor, and enter upon land to inspect it after giving reasonable notice. Failure to comply with assessors' requirements constitutes an offence. The assessor is to give a written report to the director on the investigation including a recommendation as to how the appeal should be determined.

Division 4 relates to the determination of appeals. Upon receipt of the assessor's report, the director is required to convene a planning appeal panel which shall consist of the director, the community representative and two or more other assessors. Assessors who investigated the appeal may serve as panel members. The planning appeal panel is not a court and a person serving on the panel holds no judicial status. The planning appeal panel is to determine each appeal before it and may affirm or vary the original decision, substitute a new decision or remit it back to the original decision maker with or without directions. It may also make incidental or ancillary orders. The planning appeal panel is to have regard to the assessor's report but is not bound by the recommendation. It is not permitted to conduct any further investigation of the appeal but can refer it back to the assessor for additional research. A determination is made by a majority of the planning appeal panel members and, if equally divided, the director's opinion shall prevail. Decisions must be in writing and must include the reasons for each decision. Costs may be awarded, as they are under the present Town Planning and Development Act, for frivolous, vexatious or unreasonable behaviour in relation to an appeal.

Division 5 provides for the minister to call in certain appeals. The minister may call in any appeal which is seen to be of state, regional or other public importance. This mirrors similar provisions in Victorian planning legislation. If the minister believes that any such appeal should be called in, a written notice is to be served on the director accordingly. The minister is then to determine the matter himself or herself. The call in may occur at any time before a decision is made. There are some exclusions such as heritage referrals or other matters with which the minister has previously been involved. If the minister calls in an appeal, the director shall give control of the appeal to the minister, and shall cease any current action on the appeal and notify the parties that the appeal has been called in. To provide accountability in the use of the call-in

power, it is provided that each instance is to be reported in the annual report prepared by the relevant accountable authority. The minister may personally investigate a called-in appeal or may appoint a suitably qualified person to undertake the investigation on his or her behalf. Alternatively the minister may ask the director through an assessor to continue with an investigation and prepare a report and recommendation for consideration. The minister then determines the appeal as if he or she were the planning appeal panel. The minister's decision must be given in writing and is to contain the reasons for the decision.

Division 6 contains some general provisions. It is expected that parties to an appeal either at mediation or investigation will not be represented by either a legal practitioner or other representative but will bring the case themselves. The assessor can, however, on application by one or both parties, grant leave for representation if the assessor is satisfied that there would be some unfair disadvantage without it or the mediation or investigation would not be effective without it. Appeals against planning appeal panel decisions lie to the Supreme Court on points of law, as is presently the case with tribunal decisions.

Part 3 relates to referrals to the director under other legislation. Some matters which arise as referrals under certain sections of the Metropolitan Region Town Planning Scheme Act, the Town Planning and Development Act and the Heritage Act are to be dealt with as if they were appeals for the purpose of this Bill. These relate to the consideration and determination of submissions on section 33A - minor amendments - to the metropolitan region scheme, representations that local governments are effectively failing to enforce the provisions of their town planning schemes under section 18(2) of the Town Planning and Development Act and certain action to be taken under the Heritage Act.

These last-mentioned actions relate to objections to interim heritage listings being made permanent, changing the area of a registered place or state heritage area, or removing a heritage entry from the register under proposals contained in the Heritage Bill 1999, which is running parallel with this Bill. Under that Bill, referrals for payment of remitted taxes, rates or charges or extensions of protection orders will also be dealt with as appeals.

Part 4 relates to the appointment and duties of the director, assessors, registrar and staff. The director is to be appointed by the Governor and is to have expertise in urban and regional planning or a related field. The position will not be a public service position and, as set out in schedule 2, the person appointed will hold office for a period of up to five years with eligibility for reappointment.

The director's powers extend to all things necessary for the proper performance of his or her duties under this Bill and any other relevant legislation. In addition to the duties expected of the director with respect to the processing of appeals, that person will also have power to advise the minister on issues which arise under this legislation, decisions on planning and heritage appeals and planning and heritage matters generally. The director will have power to delegate his functions to assessors, the registrar or a member of the office staff.

Assessors are to be appointed by the minister and are required to have expertise in urban and regional planning or a related field. Specialist assessors are to be appointed having expertise in environmental science to assist in the processing of appeals involving environmental conditions, in the law when issues of legal consequence arise and in the field of heritage for appeals involving heritage matters. Assessors may be public servants. It is one of the objectives of this Bill that the new appeal system will operate with as little formality and technicality as possible and will provide determinations as rapidly as possible consistent with sound decision-making as required by this Bill. Assessors are therefore required to act with those expectations in mind, to be impartial and to act in accordance with equity, good conscience and the principles of natural justice. They are to ensure that no-one is disadvantaged in the process by unfamiliarity with planning legislation, lack of professional assistance, cultural background or language.

While the emphasis of the new planning appeals system is to be placed on the planning aspects of each case, a need is seen for decisions made by the planning appeal panel to reflect the broader community interest. A community representative is to be appointed by the minister to serve as a member of the panel and that person is to have expertise in public administration, commerce, industry or community affairs. The community representative may also be an assessor. A deputy is also to be appointed.

The position of registrar is to be a public service appointment by the minister and the person appointed is to take responsibility for the day-to-day operation of the appeal legislation.

The director is to be provided with sufficient staff and resources to enable him or her, the assessors and the registrar to perform their duties under this legislation. That may involve secondment of staff from other government agencies.

Part 5 deals with general matters. One of the objectives of this legislation is that the planning appeal process will be more open and accountable with respect to the procedure and outcomes of appeals. To that end, it is proposed that a publicly accessible register of appeals be maintained containing details of all appeals including the decisions reached in each case.

The director may also publish details of important determinations which may influence future planning practice or be of other significant public importance. Extracts from the register will be available at reasonable cost.

This part also identifies the making of false or misleading statements and hindering an assessor as offences. Confidentiality is required of those appointed to office and there are protection-from-liability provisions for those making decisions or providing information.

In common with other existing planning legislation, the minister is to have a general power of direction to the director. The provision does not extend to the manner in which appeals are mediated, investigated or determined but is confined to general administration. The text of any such direction is to be included in the annual report of the accountable authority and laid before each House of Parliament within 14 days of the date on which the direction is given.

The Bill also provides that the minister shall have access to any information in the possession of any appointee or in any documentation in the appeals system. Regulations may be made by the Governor.

As with most new legislation, a review of the operation and effectiveness of this legislation is to be carried out as soon as possible after the expiry of five years from its commencement.

The schedules of the Bill relate to various matters already addressed in this submission.

It is considered that the proposals contained in this Bill provide for a new and more acceptable planning appeals system, retaining many of the desirable elements of the existing system and complementing them with a new arrangement which will eliminate the objections raised to the present dual planning appeal arrangement. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

## **PLANNING APPEALS (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL 1999**

### *Second Reading*

**MR KIERATH** (Riverton - Minister for Planning) [10.35 am]: I move -

That the Bill be now read a second time

**Introduction:** As a consequence of proposals contained within the Planning Appeals Bill 1999, various amendments are required to other pieces of legislation to ensure a proper recognition of the new appeal system in that Bill. References in other legislation to the two existing planning appeal processes to be abolished obviously require amendment to refer to the positions and procedures of the new planning appeal system to be established by that Bill.

**The Bill:** In general terms, therefore, this Bill revokes part V of the Town Planning and Development Act which relates to the Town Planning Appeal Tribunal and the ministerial appeal systems which are to be replaced.

References to those two systems in the East Perth Redevelopment Act, the Subiaco Redevelopment Act, the Metropolitan Regional Town Planning Scheme Act, the Strata Titles Act, the Western Australian Planning Commission Act and other parts of the Town Planning and Development Act are to be amended to make appropriate reference to the new planning appeals system.

The Town Planning Appeal Committee and the Town Planning Appeal Tribunal are mentioned in schedule V of the Constitution Acts Amendment Act and require removal and the insertion of the director of planning appeals or any other assessor appointed to the new system as the appropriate replacement. Likewise the deletion of reference to the Town Planning Appeal Committee in the Government Employees Superannuation Act is relevant.

The transitionary provisions of the Bill simply allow for a situation whereby any appeals already in process when the Planning Appeals Bill and the Planning Appeals (Transitional and Consequential Provisions) Bill come into operation will continue to be dealt with by the tribunal and the minister as if the new system had not come into effect.

The commencement of the Bill when passed by Parliament will, for the most part, be coincidental with the date on which the Planning Appeals Bill is proclaimed. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

## **HERITAGE BILL 1999**

### *Second Reading*

**MR KIERATH** (Riverton - Minister for Heritage) [10.38 am]: I move -

That the Bill be now read a second time.

**Background:** Section 84 of the Heritage of Western Australia Act 1990 requires the Minister for Heritage to carry out a review of the operation of the Act as soon as is practicable after the expiration of three years from its coming into operation. This Bill is a consequence of that review and seeks to put in place the changes necessary to the State's system of heritage conservation which were recommended by it.

The review was undertaken during 1995, and its work was facilitated by the report of the Select Committee on Heritage Laws which had been presented in January 1995. The report on the review was tabled in the Parliament in December of that year. The review concluded that -

- (a) the Heritage of Western Australia Act 1990 should be redrafted in plain English, in a format that is easy to understand and administer, and to accord with best practice in heritage conservation;
- (b) the Heritage Council of Western Australia has operated effectively and is to continue its functions; and
- (c) those recommendations and proposals for legislative change that have emanated from the review of the Act or from the select committee are to be considered through a consultative process to be undertaken as part of the redrafting of the Act.

The consultative process referred to in conclusion (c) was held between April and June 1996. Through that process, a series of principles to be contained in new legislation was developed and the Heritage Bill 1999 has been prepared using those principles.

Key components of the Bill: The Bill has been drafted in plain English and has been ordered in such a way as to be easier to understand and administer. It represents a considerable improvement over the current Heritage of Western Australia Act, which is difficult to follow and has proved to be even more difficult to apply. I believe that the format of the new Bill will be welcomed by all involved in heritage conservation.

The system of heritage conservation being put in place through the new Bill retains similar core elements to those in the system currently in operation. They are -

- there is to be a Heritage Council of Western Australia;
- the council is to establish and maintain a Western Australian heritage register;
- the register is to be a comprehensive register of places and areas of cultural heritage significance to the State;
- the entry of places and areas in the register will follow a two-stage process of interim and permanent registration, with the opportunity for submissions between the two stages;
- development works to places and within areas entered in the register will require the approval of the Heritage Council;
- heritage agreements may be entered into which contain provisions promoting the conservation of a place;
- certain conservation incentives will be available to provide or facilitate financial, technical or other assistance for the identification, assessment, conservation or interpretation of places of cultural heritage significance;
- protection orders may be used to prevent or prohibit any activity which might affect the cultural heritage significance of a place that is not entered in the register; and
- conservation orders may be used to require the owner of a registered place or area to take action to conserve its cultural heritage significance.

It should be particularly noted that the Bill does not apply to the State's Aboriginal heritage or to natural heritage. The review report mentioned earlier has considered the division between legislation which controls the historic cultural heritage, the natural environment, Aboriginal cultural heritage, movable heritage, and other aspects of culture such as folklore. It concludes that a bringing together under the same legislation of all or some of these categories would not be cost effective or practical at this time. I concur with that conclusion.

Significant changes from current legislation: Within that framework of key components, I am proposing that certain procedural changes be made to the system of heritage conservation through this Bill. The purpose of doing so is to make some necessary improvements to the system which have been identified by the section 84 review and based on operating experience with the Heritage of Western Australia Act since its introduction in 1990.

Membership and functions of the Heritage Council: The membership of the Heritage Council is increased from nine to 11 by providing for the appointment of six other persons with relevant skills or expertise nominated after public advertisement. This will allow for the council to have available to it in its decision making a wider range of specialised advice and guidance than at present.

The Bill provides for the appointment by the minister of a deputy chairperson of the council from within the membership of the council, which will facilitate continuity in its day to day operation. The functions and powers of the council remain the same in essence but have been greatly simplified.

The principles of providing the power for delegation of functions by the minister and the Heritage Council are retained, as is the concept of public referrals to the council of any matter concerning the conservation of a place which is, or might be, of cultural heritage significance.

The Western Australian heritage register: The process leading to the entry of places and areas in the register has been made simpler and easier to understand. It is changed in two significant ways: Firstly, the council is to be empowered to make interim entries of its own volition, and in this way it will be able to move quickly if necessary to apply the protection of the Act to places which may be under threat. The minister is provided with the power to direct the removal of such an entry should he think fit, but he must subsequently advise Parliament of his direction and the reasons for it. Secondly, a more equitable method of dealing with objections to entry is provided. Objections made following notification of interim entry which cannot be settled by the council and where it recommends that the entry be made permanent, are to be referred to the Director of Planning Appeals for advice and recommendation to the minister. This will ensure that the objection receives balanced consideration by a review body.

The procedure for making entries in the heritage register therefore will be -

- the council makes an assessment of the cultural heritage significance of a place or area using the published criteria;
- the council enters a place or area in the register on an interim basis, and gives public notice of the interim entry;
- opportunity is provided for any person, including an owner, to make a submission regarding the proposed permanent registration, including making an objection;
- following receipt of advice from the council, the minister may direct that the entry be made permanent if there is no objection to doing so;

where there is an objection, it must be referred to the Director of Planning Appeals for advice to be provided to the minister;

the minister determines the question of permanent entry on the basis of the advice received from the Heritage Council, the advice of the Director of Planning Appeals, and whether the protection of the Act is appropriate; and

as at present, the time taken to proceed from interim to permanent registration must not exceed 12 months.

The procedure for removal of an entry, being the same as for making an entry, will remain unchanged, as will the period of five years during which re-entry cannot be considered.

Places owned by the Crown will be subject to the same entry process as privately owned places. The present separate process for such places is unnecessarily complex and I can see no reason why it should be continued. To do so will greatly improve and clarify the process.

Finally, the Bill gives greater recognition to the concept of areas of cultural heritage significance being entered in the heritage register. Whilst the current Act provides for the entry of "historic precincts" it is not clear as to the effect of entry on individual properties within the precinct and how the other provisions of the Act are to apply. The Bill resolves these uncertainties by providing for the entry of "state heritage areas", and for controls to apply throughout those areas or to places within an area, whichever is appropriate.

Heritage inventories: As at present, each local government must establish and maintain a heritage inventory of places which are or might be of cultural heritage significance for the State or for the local government area. However, the purpose of such inventories is clarified as being -

to assist in the compilation of the state register;

to provide information about heritage in the local government area for use in the preparation of a town planning scheme; and

to assist in achieving the heritage conservation objectives of town planning in the State.

Other public authorities, principally agencies of the State, are to be required to establish and maintain an inventory of heritage places under their control in order to assist in achieving heritage conservation objectives through asset management programs.

At present, inventories are to be reviewed at least every four years, and are to be prepared and reviewed to the satisfaction of the Heritage Council.

Approvals to do works: The current process seeks to ensure a proper consideration of heritage conservation in the determination of development proposals for places of heritage significance by requiring the referral to the Heritage Council of applications for development approval by decision-making authorities. In operation, that process has proved to be unclear and unsatisfactory.

The council has evolved an informal system of dealing with such matters under which proposals are considered informally before submission and advice provided to owners and developers as to how heritage concerns can be dealt with. Whilst that has had some measure of success in overcoming the inherent problems, it lacks a transparent means of resolving differences and setting responsibility for the enforcement of approval conditions.

A new and independent system for the issuing of approval to do works to registered places and places within state heritage areas is proposed by the Bill. In essence, it will establish a separate development control process which requires the approval of the Heritage Council for work to registered places and places within state heritage areas. The process will not be dependent on referrals from third parties and will operate independently of the planning and building approval systems. A right of appeal is provided for aggrieved applicants.

The process will be as follows -

a person who wishes to obtain approval must apply to the council, and the council must determine applications within 60 days of receipt, having regard to -

- a. the extent to which the proposed works are likely to affect the cultural heritage significance of the place;
- b. whether there is any feasible and prudent alternative to the proposed works; and
- c. any submissions made in relation to the proposal.

Applicants aggrieved by the council's decision may appeal to the director of planning appeals. If there is any inconsistency between an approval or condition of the council under this part and an approval obtained under another written law - such as a planning approval - the council's approval or condition prevails.

In addition, local governments are to seek the comments of the council on any applications that may be received to carry out works adjacent to a registered place, or if the cultural heritage significance of that place may be affected.

Heritage agreements: The provisions for heritage agreements contained in the current Act are retained but redrafted into a more succinct and understandable format. These agreements have proved to be most successful in operation by providing a means by which heritage considerations can be adequately protected when development proposals are being contemplated.

Accordingly, the range of categories of places for which such agreements can be entered into has been expanded. In addition, the need for endorsement of individual heritage agreements by the minister as a control over their contents has proved to be unnecessary and is to be discontinued.

**Conservation incentives:** The range of conservation incentives available under the present Act remains unchanged. However, all such incentives will now be available to registered places and places in a state heritage area to provide a consistency of approach to the use of incentives, including automatic revaluation by the Valuer General which is presently available only on a discretionary basis to places subject to a heritage agreement. I believe it is reasonable for these incentives to be open to the owners of all properties which have been assessed as having cultural heritage significance and are subject to the provisions of heritage legislation.

**Protection and conservation orders:** The new process I have referred to earlier under which the Heritage Council may move quickly to enter a place in the register without referral to the minister will replace the use of conservation orders as provided for in part 6 of the present Act. The complex provisions relating to the use of such orders will no longer be necessary.

Nevertheless, the potential for damage to places which have, or may have, heritage significance will still exist, and there is a need to provide within the system the opportunity to take rapid action to protect such places. Accordingly, two kinds of order will be available under the Bill, each being made by the minister on the recommendation of the Heritage Council.

Firstly, a protection order may be made with respect to a place which is not in the register but which may be of cultural heritage significance and may be subject to imminent damage. Such an order may prohibit or restrict activity likely to adversely affect the significance of the place. It will have effect for 60 days or longer should the Director of Planning Appeals on request by the minister extend the time, or until the place is entered in the register. A person who is aggrieved by the making of a protection order may appeal to the director of planning appeals. Secondly, the minister may make a conservation order which may require the owner to do repair works to protect the cultural heritage significance of a place entered in the register or within a state heritage area. The work specified by a conservation order must be done within a specified period of no more than 30 days. A person aggrieved by a conservation order may appeal to the Director of Planning Appeals within 30 days of the order being made.

**Compensation:** No heritage legislation in Australia provides for compensation per se for the effect of entry in a heritage register. However, the current Act does provide for compensation for a loss incurred as a consequence of the taking of action under the Act which causes the revocation, modification, suspension or delay in implementation of an existing approval. That principle is continued in the Bill.

**Penalties:** Penalties for the contravention of various provisions of the current Act have remained unchanged since its introduction. In addition, the penalties are inconsistent and uneven. For example, the penalty for damaging a registered place is presently \$5 000 and a daily penalty of \$500. However, contravention of a conservation order attracts a penalty of \$10 000, imprisonment for two years, and a daily penalty of \$1 000. The Bill will considerably increase penalties and add consistency of application. By way of illustration, in the three key areas of unauthorised work to a registered place, contravention of a protection order and non-compliance with a conservation order, the penalty will be the same; \$50 000, two years' imprisonment and a daily penalty of \$5 000.

**Conclusion:** I believe the Bill more than adequately responds to the conclusions reached through the review process in 1996 and represents a vast improvement over the Heritage of Western Australia Act 1990. The Bill is in a format which is considerably easier to follow and use than the present legislation and follows a logical arrangement. It is written in plain English and is consequently simpler to understand for all its users.

The building blocks of the current system of heritage conservation remain unchanged, and the introduction of the Bill should not create any difficulties for the community in maintaining the basic understanding of a system which has operated in the State for almost a decade. Some small but significant changes to the system have been made which will make it more effective and easier to administer, and will provide greater transparency in decision making responsibility together with better focused review procedures to provide greater accountability. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

## **HERITAGE (CONSEQUENTIAL PROVISIONS) BILL 1999**

### *Second Reading*

**MR KIERATH** (Riverton - Minister for Heritage) [10.52 am]: I move -

That the Bill be now read a second time.

This Bill contains amendments to various Acts as a consequence of the enactment of the Heritage Act 1999. Under the current Heritage of Western Australia Act, consideration of heritage conservation in the determination of development applications for places of heritage significance is achieved through the referral to the Heritage Council of such applications by decision making authorities. In operation, that process has proved to be unclear and unsatisfactory.

The Heritage Bill establishes a separate development control process which requires the approval of the Heritage Council to work to registered places and places within state heritage areas. It will operate independently of the planning and building approval processes, and not be dependent on referrals from local governments or the Western Australian Planning Commission.

The present process of referral of applications to the council by other authorities is incorporated by reference in other planning and building control legislation, and the introduction of the Heritage Bill will render those references redundant. This Bill makes the necessary changes. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

## **RAIL FREIGHT SYSTEM BILL 1999**

### *Committee*

The Deputy Chairman of Committees (Ms McHale) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

Progress was reported after clause 12 had been agreed to.

### **New clause 13 -**

Ms MacTIERNAN: By moving a new clause 13 which would limit the operation of clause 12, I am seeking to ensure the Government's commitments about the leasehold interest are met. As members know, there was a great deal of opposition to the Government's original plan to sell the rail tracks. In order to ameliorate some of that criticism, the Government made it clear that its intention was to lease the rail tracks and the land beneath them for no more than 49 years. Clause 12, which has already been passed, seeks to put that assurance into the legislation by providing that a proposal to dispose of corridor land cannot be approved if the interest to be disposed of is greater than a leasehold interest; that is, the maximum interest in the land which can be disposed of is leasehold. The Opposition is seeking to ensure that that leasehold does not extend after 49 years; that is, be a 99-year lease. I do not know whether the minister's advisers can find a predetermining provision in the Government Railways Act but even if such provision exists, because this is a new piece of legislation and not simply an amending Bill, it is important to make it absolutely clear that we are talking about a 49-year lease and no more. I do not see why the Government would have any difficulty with this because its pledge to the community was that this will be a leasehold of not more than 49 years. This attempts to hold the Government to its word in that regard. I move -

Page 7, line 1 - To insert the following -

### **13. Period of Leasehold Interest**

Any leasehold interest granted pursuant to section 12 shall not exceed a period of 49 years.

This seeks to do nothing other than ensure the Government does not grant an interest which is greater than that which it has pledged, particularly to the rural communities of Western Australia. It has said that it will not lease this for more than 49 years, and this gives the Government an opportunity to ensure that it is enshrined in the legislation. This goes back to the more general debate that the member for Cockburn was having in relation to clause 12. Unlike other pieces of legislation, we do not have a model or draft lease which would give us some idea of what will be the terms of the disposal. The Deputy Premier is asking us to just trust the Government. The frequent refrain is that we can be confident that the Government will undertake that in this lease and that it will provide X, Y and Z. However, we have never seen the lease and, on past performances, we are not likely to. We are seeking to include a few minimum protections that would ensure that the Government abides by its word that it is giving to people in the community.

Mr COWAN: I indicate to the member for Armadale that what she is proposing is completely unnecessary. If she looks at clause 12 which was agreed to yesterday and then turns to clause 42 (1)(a), she will see that although the figure of 49 years is different, the wording of clause 42 (1)(a) refers to the disposal of an interest in corridor land that is no greater than a leasehold interest and, if it is for a term, is not for a term that is, or is capable of being, more than 50 years. That provides the very safeguards that the member is seeking to introduce through this amendment. The amendment is rejected by the Government

**Amendment, by leave, withdrawn.**

### **Clause 13: Minister to negotiate disposal -**

Ms MacTIERNAN: I move -

Page 7, after line 4 - To insert the following -

- (2) Once a proposal has been approved by the Treasurer, the Minister will cause within 3 sitting days that proposal to be tabled in both Houses of Parliament.

As we have said time and again during the debate, one of the problems for us is that we are being asked to enact legislation that will enable the Government to dispose of the Westrail freight system and the track network without having any certainty about what will be the terms and conditions of such a disposal. With this amendment we are seeking to provide at least some early advice to the Parliament about what is intended by the Government.

The schema of the Act works in this way: This legislation gives the minister power to prepare and submit to the Treasurer a proposal to dispose of the commission's rail freight business and any associated matters, obviously including the track network. The Treasurer then must approve that, and he can then issue a land corridor order which is published in the *Government Gazette*. From reading that corridor land order - I will seek some clarification on that - I believe that would be a far more limited matter than the proposal which is put forward to the Treasurer. As a Parliament, we must have early warning of the entirety of the proposal. I am not suggesting in any way that the matter should be tabled when the minister for rail corridors has drawn up his proposal, because at that point it obviously does not have the imprimatur of the Treasurer

and has no executive force. Once it is approved by the Treasurer, it then has executive force and can be acted upon presumably by way of the issuing of tenders or requests for proposal. We believe that the proposal should be put before the Parliament at that point. We are not interfering with the operation of the Executive. We are not saying that the matter must be by way of regulation and that there must be a mechanism whereby we can disallow it in the Parliament. We are merely saying that it is important that the Parliament and, therefore the public, have early knowledge of the proposal. If the proposal is controversial and should be properly analysed by the public or subject to public debate before it goes out to tender and the Government commits itself to a particular course of action, the mechanism we propose will facilitate that. It will not override the Government's executive power, and it will not interfere with its capacity as an Executive to make decisions. It will ensure that certain key points of that decision-making process must then be made public. If they were controversial, one presumes that they would then be subject to debate within the community and, if the decision were not popular or not wise, there would be some capacity for it to be overturned before the Government contractually committed itself to the disposal of this land. I am interested in the Deputy Premier's comments on that. I note there is a requirement to issue a notice of a corridor land order, but I understand that to be a much more limited creature than the proposal we are discussing.

Mr COWAN: The member for Armadale is correct: A corridor land order would be much more limited than the proposal that the minister may prepare and submit to the Treasurer. Under clause 11, the proposal would be with respect to the disposal of the commission's rail freight business and anything associated with that business. The member is right; it is a much greater issue. It is not my intention to accept this amendment. However, by way of some advice to the member, I indicate that the next amendment she proposes is wrongly placed and I think this amendment also is wrongly placed. This amendment would have been considered more properly as an amendment to clause 11. The amendment which the member proposes to introduce as an amendment to clause 15 would be more appropriately placed here and debated during this clause. However, that is a matter for the member for Armadale to determine, because we will deal with the amendments wherever they are placed.

Ms MacTiernan: I will answer that if the Deputy Premier wishes.

Mr COWAN: It is entirely up to the member for Armadale. I have no preference in that regard. The member is correct when she states that a proposal to dispose of corridor land is a very narrow issue; whereas the proposal to dispose of the commission's rail freight business, or any land associated with it, is not something the Government would seek to table in the House. However, once an agreement has been reached, through the management of government business, with a proposed operator to sell the freight business and to lease the land and the track associated with it, I imagine that will be a matter for much debate in this Parliament.

Ms MacTiernan: How will we know what the Government is proposing?

Mr COWAN: That may well be a matter for conjecture. Disposal of assets in this State has occurred on only a limited number of occasions. The sale of BankWest and the sale of the Dampier-Bunbury gas pipeline are two examples of information being readily available and being debated.

The Opposition took a position on those matters and I do not see any difference here. It is not necessary to legislate for the tabling within three days of a decision to sell the freight business and the leasing of land or track associated with it. That is a management responsibility of the Government, although the Parliament has a responsibility and a right to debate those issues. The member is again confusing the responsibility of the Executive with the responsibility of the Parliament.

Ms MacTIERNAN: As a lawyer, the Deputy Premier makes a fine farmer! I seek to engage his fine forensic mind and to explain why these clauses are listed in that way on the Notice Paper! I deliberately did not move this amendment under clause 11 for the reasons I thought would have been obvious from my earlier discussion on this. The Opposition agrees that when it is merely a proposal by the Minister for Transport - or the minister for rail corridors - it is not appropriate that it come before the Parliament. Clause 11 merely deals with the power of the minister for rail corridors to draw up such a proposal. The Opposition becomes interested only when that proposal has the imprimatur of the Treasurer and that is invoked under clause 13. It was no accident that this amendment was moved during debate on clause 13. We are arguing that this matter should be brought before the Parliament only at that stage.

Mr Cowan: What do you want to see tabled; the proposal or the agreement?

Ms MacTIERNAN: There are three stages: The proposal as developed by the minister for rail corridors which then goes to the Treasurer where it may be approved or otherwise.

Mr Thomas interjected.

Ms MacTIERNAN: No; the agreement is another stage. The proposal as approved by the Treasurer basically represents the Government's policy and its intention. That is what we want tabled. The agreement, which is another matter, is the undertaking made with the third party. There are three stages of the proposal: The embryonic stage, the stage described by the minister for rail corridors and the stage at which Treasury and, presumably Cabinet, approval is obtained. That is the point at which the information should become public; that is, before it is then transmogrified into an agreement with a third party.

Mr Cowan: What was that word again?

Ms MacTIERNAN: It was "transmogrified". I do not believe that National Party members are boofheads so I assumed the Deputy Premier would understand that word.

This is an important area in which to place this amendment. The Deputy Premier is asking the Parliament to give him

approval to dispose of the assets that the State has accumulated over almost 100 years. The Opposition is saying that if he wants that power we want some protections; albeit not many. One of the protections is that after he has signed off on a package, at the very least he should put it before the Parliament; not to seek parliamentary approval, but to inform us of its content. That is a crucial time for us to be aware of that. I note that the Minister for Police is helping out his former mate by bringing a dictionary over to him. It is nice to see that cooperation between the Liberals and the Nationals because we have not been seeing much of it lately!

Mr Prince: We people from the bush stick together.

Ms MacTIERNAN: I thought the Minister for Police was more of an English country gardener than someone from the bush. If we listen to the Deputy Premier, places such as Bunbury and Albany are anything but the bush; they will not get any Westrail funding.

Mr Prince: We have a railway line; it gets used a lot too.

Ms MacTIERNAN: There are many potholes in it. We are not seeking to interfere with the executive ability. The Deputy Premier wants us to empower the Government to dispose of state assets that have been built up over 100 years. We are saying only that once the proposal is developed and has cabinet approval we be advised of what it is.

Ms ANWYL: I would like to hear some more from the member for Armadale on this subject.

Ms MacTIERNAN: The Deputy Premier asked why we need to legislate for this when the Government has been so great in providing information on sales of assets, such as the Dampier-Bunbury gas pipeline and a number of others. In relation to the Transport portfolio there has been a history of secrecy. When the Government intended to enter into an arrangement over the James Point port we could not get a copy of the tender document. It was refused under freedom of information legislation. If anyone wanted a copy of it, they had to pay \$1 000.

Before the Government went to dispose of our public transport network, no information was given. We had no idea what the proposed agreements would contain. A very sorry story of concealment continues today. Even now, after the contracts have been signed we have no idea what is in them. Apparently we have no right as a Parliament, nor does the public, to know what is the deal between the Government and the private bus operators to which we have handed over the network. The Deputy Premier must realise that his failure to disclose information has been disgraceful. We are not talking about usurping powers; we are merely calling the Government to account so that we know what the Deputy Premier will do. He cannot tell us today what he will do. When we ask for details of what will be in the contract we are told that the rail task force says that it is looking at that or doing this. The Opposition understands there is a degree of uncertainty because people are working on proposals. That is obviously the way things will occur.

However, we are asking that, at the very least, once Cabinet has signed off on an arrangement that will be put out to the private sector, the Parliament should have the right to know the contents. That is a reasonable quid pro quo for giving the power to dispose of those assets.

Mr THOMAS: I support my colleague the member for Armadale. A couple of good reasons exist for the proposal between the Minister and the Treasurer to be in the public domain through tabling in Parliament. The public is entitled to know with the sale of all public assets what the State will receive so people can make an assessment on whether the deal is prudent. The Deputy Premier said that information on other asset sale prices, such as with BankWest and the Dampier-Bunbury gas pipeline, was in the public domain, and an assessment was made on whether they were good deals. That analogy breaks down with this deal, as its lease will contain terms which go beyond the overall price for the asset and relate the way it will be managed in the public interest over the term of the lease.

When we debated clause 12 yesterday, I raised questions of concern to me - they still are - about the lease conditions to ensure that the lessee maintains the assets, and enhances, we hope, the current capacity of the asset to cope with an increase in rail traffic. Despite the fact the lessee will operate a business itself, we hope that third party operators will be involved. What obligations will be on the lessee to enhance the capacity of the asset? I am concerned about that aspect. It is extraordinarily difficult to draft a lease which will provide obligations on the lessee which will be able to be enforced, and still be commercial in some sense for the person buying the business. I look forward to seeing that document; I am interested to know how it will be done.

The minister drew some analogies, one being to BankWest. No comparison can be made as BankWest is only another bank. Once it was sold, many other banks were operating and the same public interest aspect did not apply. The Dampier-Bunbury natural gas pipeline, the other example mentioned, involved a whole heap of legislation dealing with the obligations on the owner of that pipeline concerning third party access, to enhance the capacity of that asset and so on. They stood outside the sale agreement. The equivalent obligations on the purchaser of the business, and the lessee of the rail asset, which applied to the operator of the Dampier-Bunbury pipeline were not contained in the pipeline sale document; they were in legislation of this Parliament, state agreements and various other instruments outside the sale document. Those obligations will reside nowhere other than in the sale document, in this case with Westrail.

Clause 14 states that the agreement may, not shall, deal with provisions to ensure that the asset in simple terms is maintained so it can be used for the purposes for which it was used at the time it was acquired. The operator must maintain the railway in sufficient state so it can continue to be used as a railway, presumably with current capacity. It says nothing about the lease possibly containing some obligation on the lessee to enhance the capacity of the asset in the event that a market is available to which third party users wish to gain access.

When we debated this matter yesterday under clause 12, the Deputy Premier said two things: First, the lease will contain

some obligations on the purchaser to provide sufficient capacity for third party users. I am not a draftsman, but I have had some experience in these matters as a member of Parliament and elsewhere, but it will be extraordinarily difficult to draft a lease which is commercial and contain that obligation. Parliament and the public have a right to look at the lease in that regard. The Deputy Premier also said that if the operator does not invest, the Government will come in and invest in the asset to increase its capacity. That is another variable. What obligations will apply to the lessee in the event that the Government does invest?

Mr COWAN: Again, a number of issues were raised which are not directly related to the clause. Returning to the proposed amendment, the explanation offered by the member for Armadale is clear proof that she seeks an intervention between the responsibilities of the Executive and the responsibilities of Parliament.

Ms MacTiernan: How so?

Mr COWAN: The member is asking for the proposal, when it has been approved by the Treasurer, to be laid on the table of the House before an agreement is reached with the company. That is the responsibility not of Parliament, but of the Government; namely, to use the member's words, to go through the three stages, and then to make an announcement that it has at least reached an agreement with an operator. That is the way Executives have worked, and the way we see the separation of powers and authority of the Executive from Parliament. Whether the member likes it or not, that has been the situation for as long as I can remember. We have no interest in changing that system. Governments have responsibilities. The responsibility is to put a proposal through the Minister for Transport, and to have that proposal approved. Once the proposal has been approved, one must enter an agreement. That is the responsibility of the Executive. It is not the responsibility of Parliament to intervene in that process. Believe me, the moment that a requirement arises for the Minister for Transport, the Treasurer or the Government as a whole to table a proposal which had been approved by the Treasurer, but for which no agreement had been reached, intervention would occur in the Government's proposal. By the very nature of Parliament, that would occur.

It is not the intention of Government to allow for the intervention of Parliament in what is clearly the responsibility of the Executive. It is the responsibility of Government to ensure that a proposal is put to the Treasurer, who approves the proposal, and then the responsible minister enters into an agreement. Once the agreement is reached, Parliament has a responsibility to debate it. It does not make any sense for Parliament to be involved in the process itself.

Ms MacTIERNAN: I have two questions: First, what harm would follow from the proposal being tabled? Second, the minister talks about a move from the proposal to the agreement -

Mr Cowan: I was using your scenario.

Ms MacTIERNAN: Okay. Is it not the case that once the proposal is developed, the matter goes out to tender? There will be a tender process subsequent to the proposal being adopted.

Mr COWAN: My understanding is that one would call for tenders before a proposal was put to the Treasurer. There may be discussion or debate within Government about what a tender document might contain. I doubt whether the proposal would be put before the Treasurer for approval before tenders had been called. I assume that a clear proposal would be put before the Treasurer, and the only way that could be done is if some comparison could be made between the documents that had been provided by tenderers.

Ms MacTIERNAN: Will the scheme that is set out in part 2, which includes clauses 11 to 13, be subsequent to the tender process?

Mr COWAN: Yes.

Ms ANWYL: I support the amendment moved by the member for Armadale. The Deputy Premier is right when he says that a responsibility of government is relevant here. That responsibility of government is to provide services to the people of Western Australia. One of the critical issues that will be taken away from the scrutiny of the people of Western Australia is exactly how this final proposal and agreement process will provide for particular infrastructure needs. The Government proposes to enter into an agreement with a private purchaser, and there will also be a 49-year lease for the track and rail corridors. If, as the Deputy Premier has said, there will be some provision within the lease agreement about the purchaser and lessee looking after the infrastructure needs of particular pieces of track, how will we know that, because by the time that comes back to the Parliament and to the scrutiny of the people of Western Australia, it will be a fait accompli? How will we know that particular track infrastructure needs will be subject to the lease agreement or to the contract of sale, if it is envisaged that will be a condition in that contract? The letter that was published in the *Kalgoorlie Miner* earlier this week from Graham Baker, project director, Rail Freight Sale Task Force, states, presumably with some authority from the Court Government, that -

The legislation which is currently before parliament includes provision for the Government to invest in and operate railways should it wish to do so in the public interest.

With regard to the Leonora-Esperance line, the people in the goldfields, and I am sure also the residents of Esperance, want to know how the infrastructure of that track will be provided for. Will it be a condition in the lease, as the Deputy Premier has said, or will it be a condition in the sale contract, which is possible, that the purchaser will be guaranteed that the Government will put \$35m into that track infrastructure? Lots of permutations and combinations arise from this scenario. The reason this amendment is so important is that prior to the final ratification of an agreement, it will give the Parliament the opportunity to look at exactly what the Government is proposing when it sells off Westrail and grants a 49-year lease on all of the infrastructure. It is unclear to me how the Parliament will have any opportunity to have input into or scrutiny

of these vital conditions. The Transport Minister will be negotiating the disposal of those assets, but clause 13 is the clause that provides for the minister to negotiate all of these things, and the Parliament and the people of Western Australia should be given more detail about the mechanism by which the Government intends to do that.

The DEPUTY CHAIRMAN (Mrs Holmes): Before we continue, I remind members that it is totally disorderly to walk between the speaker and the Chair.

Mr COWAN: Again, the member is confusing wants with needs. On the Kalgoorlie- Esperance line, there certainly is a need for that service to be maintained and upgraded to continue to carry the current volume of traffic, and those decisions will be based on economics and on the extent to which the operator will be able to win that traffic. The lease agreement will contain consideration of those issues, not just the Kalgoorlie-Esperance line, but also the maintenance of branch lines, which is important because, as the member would be aware, the Government has already initiated a maintenance program to upgrade many of those branch lines. The Government has given a commitment that provided the traffic on the Kalgoorlie-Esperance line is maintained, then clearly a program to replace the sleepers must be put in place; and we had that debate during the second reading. Those issues will be taken up in the lease agreement, and they will be a matter for negotiation between the operator and the Government. If this amendment were passed - I hope it is not - then the Parliament would need to be brought into a public discussion about those matters before an agreement can be reached. That is exactly what this Chamber should not accept. The operation of the Executive is to have the minister present a proposal to the Treasurer, for the Treasurer to then approve that proposal, and for agreement to be reached with the company. It is a matter for the Executive to make those decisions. Regrettably or otherwise, that happens to be the responsibility of government. It is not the responsibility of the Parliament to be involved in the day-to-day administrative responsibilities of the Executive, yet the member is demanding through this amendment that the Parliament should become involved in the administrative responsibilities of the Executive. I am saying it should not be.

Ms MacTiernan: Then you will not get the legislation through.

Mr THOMAS: I am a bit disturbed by what the Deputy Premier has said about the role of the Executive and the role of the Parliament. He is saying that it is not the role of the Parliament to be involved in these matters that the Executive wants to enter into.

Mr Cowan: Not at this point.

Mr THOMAS: At what point? At this point we need to know the terms of the lease, and what provision will be made to ensure that assets are maintained and enhanced in the future. Without going through what we may describe as the commercial matters that the lessee or the purchaser of the business may be concerned about, there is a legitimate public interest in ensuring that the terms of the lease are such that the system will be maintained and, hopefully, enhanced, and I do not think we can avoid that. We cannot under the legislation as I understand it close down a railway without a special Act of Parliament, so much so that traditionally it has been seen that the public has an interest in ensuring that the rail system is maintained and, hopefully, enhanced. That is a legitimate question of public policy. It is not a matter of a private commercial operation between a private person and the Government. The next clause states the things that may be contained in that agreement - I hope they will be - to ensure that the system is maintained. I also hope that other things will be contained in the agreement. As I have said on a number of occasions, and as I will probably say on a few more occasions before this debate is over, I find it extraordinarily difficult to envisage how that can be contained in a commercial lease. The commercial lease is the instrument by which those obligations will be conferred upon the purchaser of the business. They do not exist outside in legislation nor by analogy with the gas industry in interstate agreements or in any other instrument. The instrument by which they will be prescribed upon the purchaser is in this lease. Therefore, it is legitimate for the public through the Parliament to want to scrutinise the terms of the lease because much hangs on it. Earlier, we were told that this lease may exist for up to 50 years. The future of the rail system in this State for the next 50 years will be contained in the terms of the lease. Now we are told we cannot see the lease. That is absurd. The public and the Parliament have a legitimate interest in scrutinising the terms of that lease. To be told that that is undue interference in the Executive is denying the Parliament its correct role.

Ms MacTIERNAN: It is obvious that we will not get very far. We want to ensure that the Deputy Premier understands that he is asking the Parliament to give up a power that it currently has. Currently, no railway line can be disposed of in this State other than through a change in an Act of Parliament. The Parliament currently has control over the railway system under the Government Railways Amendment Act; it has control over what railways are closed down and disposed of. The Deputy Premier is now asking it to change this and give the Government the power to dispose of these railway as it sees fit, and to then have very minimal protections. The minimal protection is that the lease on a line cannot be greater than 49 years. The Deputy Premier wants Parliament to abrogate a power that it has currently. It is not currently within the capacity of the Executive alone to close down a railway line, but he now wants to reduce the power and hand it over to the Government. If that will happen, we want a few minimal protections. One of those minimal protections is that before the Government does a done deal and has decided what it wants to do, we want to know about it. We are not suggesting that we would have the power to disallow the proposal, merely that before it became a done deal, before it had contractually committed this State to this arrangement, we would know about it because the Government cannot provide us with any detail. The deal has not been appended to the legislation in the same way, as the member for Cockburn has pointed out, as straight agreement Acts, or the Dampier-Bunbury gas pipeline. We are being asked to withdraw a power that Parliament already has in favour of this scheme without being given any detail. It is reasonable and fair for us to say to the Government that if it wants the Parliament to remove the power that it has currently to control railways under the Government Railways Amendment Act, the Parliament has the right to know before it signs off on a done deal.

**Amendment put and negatived.**

**Clause put and passed.****Clause 14: Agreement may deal with certain matters -**

Ms MacTIERNAN: The Deputy Premier has given us reason to believe that he might support our amendment if we moved it to clause 14. It does not really matter; we can debate it in clause 15.

**Clause put and passed.****Clause 15: Approval under *Land Administration Act 1997* section 18 -**

Ms MacTIERNAN: I move -

Page 7, after line 23 - To insert the following -

- (2) The Minister must within 3 sitting days after entering into an agreement under section 13, cause that agreement to be tabled in both Houses of Parliament.
- (3) The Minister may only delete information from an agreement referred to in the previous subsection if the Auditor General has approved such a deletion on the grounds that it would unduly harm the business of the non-government party if that information was made public.

I would not expect the Deputy Premier to support this amendment because in the discussion on the Opposition's previous amendment, the Deputy Premier said that it is an interference with the right of the Executive for us to require it to disclose the nature of the our proposal before it enters into an agreement; that the public is entitled to know about an arrangement when the agreement is done. We do not agree with that, but taking what he says on face value and looking at the Commission on Government recommendations and the governmental response on the COG recommendations, we imagined that the Deputy Premier would have no difficulty with this amendment. This amendment states that once the Government has entered an agreement with a private third party to dispose of the State's assets, that agreement is then tabled before both Houses of Parliament. Again, we are not seeking in any way to give Parliament the right to disallow such an agreement; we are saying that surely at this point if the Government does not agree with us we have the right to know what it is doing before it has done a done deal, and that once it has signed the agreement, we then must have the right to know what is in that agreement. I propose not only that that agreement be tabled, but also I recognise that some aspects of that agreement might legitimately be described as commercially confidential. With that in mind and to cut off an escape route for the Government, we have provided for certain excisions from that document provided that these excisions have been authorised by the Auditor General as being harmful to the business of the non-government party to the agreement. We know that normally the banner of commercial confidentiality is raised to protect government rather than to protect the parties that it is dealing with. That was the comment of the Royal Commission on WA Inc and I have in this place recognised openly, as the Labor Party does recognise, that during the so-called WA Inc days, the mantle of commercial confidentiality was improperly used. That was the reason commented upon by that royal commission into those activities. Following that royal commission, a Commission on Government was set up to respond to that. How can we provide structural changes to overcome the things that went wrong in those days? The Commission on Government examined this matter in great depth. Bodies such as the Chamber of Commerce and Industry argued that we should get rid of commercial confidentiality in the way that it was being used, and that contracts must be disclosed. Les McCarrey, the architect of the Government's privatisation plans, was very scathing of the commercial confidentiality surrounding the current Government and its failure to disclose those contracts. Not surprisingly, the Commission on Government brought down a strong recommendation that all government contracts be made public, subject to certain protections of the type we are setting out here. In October 1996, the Government said it agreed to do that but it has not acted on that agreement. The Opposition is giving it the opportunity to live up to the commitments it made in October 1996.

The DEPUTY CHAIRMAN (Mrs Holmes): Before we continue, if members wish to converse in the Chamber, I would be grateful if they could keep the tone down for the sake of Hansard or leave the Chamber.

Mr THOMAS: I support my colleague, the member for Armadale, and congratulate her for drafting this clause. It complies precisely with the recommendations of the Commission on Government about commercial confidentiality. We do not need to go into the merit of having these matters in the public domain; we debated that in an amendment moved to an earlier clause and the same argument applies here. However, we now have the agreement at a more advanced stage and in terms of the Deputy Premier's argument, that is a greater case for it to be in the public domain.

The protections in the amendment are entirely consistent with the Commission on Government's recommendations about commercial confidentiality. I made a submission to the Commission on Government on this question because I had asked a number of questions in this place, primarily of the Minister for Energy, and time and again I was told that I was not entitled to information because it was commercially confidential. The Commission on Government cited the Minister for Energy as an example of the way Government should not behave; that is, commercial confidentiality was inappropriately cited resulting in the public and the Parliament not receiving information to which they were entitled.

I made a submission to the commission and ultimately it came down with a detailed recommendation which essentially said that whenever a Government entered into a commercial arrangement - be it a purchase, lease, sale or whatever - the presumption was that that information should be made available to the public through the Parliament. Obviously, at least some aspects of an agreement such as intellectual property or prices which can be discerned from the terms of a commercial agreement should not be made public as that would prejudice the commercial interests of the person doing business with the Government. In that case, the agreement should go to the Auditor General who - I am working on memory as I do not have the COG report with me - should make a ruling about whether commercial confidentiality should apply. If he ruled

that it should not, the contract should be made public. I will check on this in my office but I believe the recommendation was that the contract should also be sent to a parliamentary committee, probably the Public Accounts and Expenditure Review Committee.

Quite stringent safeguards were set down and are reflected in the amendment moved by my colleague, the member for Armadale. The Opposition has enumerated in debate on other clauses the reasons this information should be made available, other than our wanting to run a ruler over the price. The public is entitled to ensure that a proper price has been obtained for the sale of a very valuable public asset. Apart from that, there is a legitimate public interest in ensuring that there is a viable and competitive rail system in this State and therefore we should have access to the information. The protection of the lessee, the purchaser of the business, is provided for in the amendment moved by my colleague which reflects the recommendations of the Commission on Government on commercial confidentiality.

Mr COWAN: I would be very surprised if, in the course of the Government reaching an agreement about the disposal of the freight business, there was not some revelation of the value to the State of that asset sale. Not only that, I would be equally surprised if there was not in the Government's announcement about the sale a clear indication of the commitments required of the operator for the continued maintenance of the rail track. I acknowledge the member for Armadale's endeavour to respect some of the conditions of the Commission on Government's recommendations in the way she has worded this amendment. However, I correct one thing; she said the Government has done nothing. If one looks at the industry schemes available through, for example, the Department of Commerce and Trade, one will see that every applicant to those schemes is advised that because they are applying for taxpayers' dollars, the details of their application - less the commercially sensitive issues such as pricing which might be valuable to a competitor -

Mr Thomas: That is it protected.

Mr COWAN: I know; that is what I am saying.

Ms MacTiernan: Are these grants to business?

Mr COWAN: Yes. We tell applicants that they need to understand that, as much as we possibly can, we dispense with the broad statement "This is commercially sensitive or commercial in confidence and cannot be published." If the applicants are successful, the details of their applications and the support will be and are tabled in the Parliament. While I acknowledge what the Opposition is seeking to do and that its proposal would gather a lot of support in different quarters, it is not something I would be prepared to support for one reason. Members opposite might say I am not discharging my responsibilities correctly or appropriately in this instance. However, while I sought to ask the Minister for Transport for his view when these amendments were produced, I have not been able to do so. I am quite sure that the member's colleagues in the other place will take up this issue and the minister will have the right to make a decision about it. I suspect he will tell the Opposition that rather than seeking the tabling of an agreement which may contain a great deal of commercially sensitive material to the extent that any publication would not be of any value, it may be more appropriate to seek the tabling of the terms of the lease of the track because they contain some of the issues, particularly the issues the member for Cockburn raised. I suggest to the member for Armadale that that will be taken up in the other place and be given consideration by the responsible minister.

I understand and appreciate why the member is doing this but I also note that there is this clear demarcation between Opposition and Government; Oppositions have always asked for these provisions in legislation and Governments, irrespective of colour, have always denied them. In this instance, there is no doubt that what the Opposition is saying should not be dismissed lightly. It should be taken up in another place, perhaps in a slightly changed format which places greater emphasis on the lease rather than on the agreement. The Government will not be supporting this amendment at this stage.

Ms MacTIERNAN: I appreciate the Deputy Premier's seeing some merit in the argument. We will take his comments about it being a significant change of policy and his need to clear the matter with the Minister for Transport on board. The Deputy Premier then suggested that perhaps all we really need to see are the details of the lease. Frankly, although we would be interested to see the details of the lease, we would also like to see the details of the agreement. The Deputy Premier said that Oppositions always ask for these clauses and Governments never give them. I point out to the Deputy Premier that there has been a substantial change in culture around the world on this matter, and Australia really is isolated -

Mr Thomas: Especially Western Australia.

Ms MacTIERNAN: - particularly Western Australia. I do not know in how much detail the Deputy Premier has followed actions in other countries, but certainly with the privatisation of the United Kingdom rail system, all of the contracts were placed on a public register, with very few excisions. In the United Kingdom under the Conservative Government of John Major it was certainly not the case that much data was taken out of those agreements before they were tabled. That Government had no difficulty tabling those documents.

Indeed, it is interesting to go back to the Commission on Government report to which we referred earlier on this matter. Les McCarrey, the architect of the Government's privatisation plans, made the comment that he was asked to investigate the gas sales agreement. He could not even get a copy of it. He was commissioned by the Government to investigate the gas sales agreement, but he had difficulty getting hold of the documents that he was being paid to review. However, when he went to the United States, the land of the free and the home of free enterprise, he found that he had no difficulty getting hold of any of its similar sorts of agreements. Therefore, we have a situation in which the argument is that so much material would have to be deleted as to make the documents useless.

Mr Cowan: That was just my view.

Ms MacTIERNAN: It is not a view that stands up.

Mr Cowan: I may be completely wrong. I would not want you to build a great case over it.

Ms MacTIERNAN: I suggest the Deputy Premier read the Commission on Government's report on this matter, and he will learn that there is nothing unusual, complicated or threatening, unless one has done something about which one does not want the public to know -

Mr Cowan: I have read it, and my department operates its industry incentive schemes according to the principles that have been recommended in the COG report. Therefore, the member does not need to ask me to read it again.

Ms MacTIERNAN: Okay. I am glad that at least in terms of government grants this occurs. However, it was not really in terms of government grants that the matter was raised. I note the presence of the member for Avon, who has been a proponent of a greater degree of disclosure of government grants, and obviously he has had a fair amount of influence on the Deputy Premier in the operation of the Department of Commerce and Trade.

Mr Cowan: A huge influence.

Ms MacTIERNAN: That accounts for the atypical response of that minister. However, as to the real guts of the matter, which are the contracts that the Government has entered into, which we displayed in Parliament the other day, as opposed to the grant arrangements, the vast majority of the big contracts are not even listed on the Government's web site, which is supposed to be its response to COG. Those that are listed are in part misleading, and those that are listed which are not misleading are simply one-page summaries. They are completely useless and give no guidance whatsoever on what is in the contracts. Major contracts like the bus privatisation contracts remain secret, as indeed do the Main Roads WA term maintenance contracts. It is time that this matter was addressed.

Mr THOMAS: I will take up the thread of the argument of my colleague, the member for Armadale. The situation here - we are really putting these matters on the record for consideration in another place - is that the Deputy Premier said he was committed to the principles of the Commission on Government as to commercial confidentiality and he applied them in his own department. However, he has not been able to obtain instructions from the instructing minister in this Bill - a minister in another place - and, therefore, he is not able to agree to the well thought out, well drafted amendment which my colleague, the member for Armadale, has put forward. The Deputy Premier having said that, when this issue gets to the other place, we will have to decide what we will do with it. That is unfortunate, because I would like to see this Chamber deal sensibly and properly with Government legislation rather than necessarily saying it will be fixed when it gets to the other place, when the Australian Democrats and the Greens (WA) will also put the ruler over it. I like to think that we in this place, representing the major parties for the most part, can also deal sensibly with these matters and have regard for issues, such as the Commission on Government and so on.

The Deputy Premier shrugged his shoulders and said that it has always been this way: Regardless of the political hue of the Government or the Opposition, the Opposition always says that it wants access to particular information and the Government always says no. However, things have changed markedly over the past 10 years. The Deputy Premier admitted the position has changed and he applies those changes to his own department. The Burt Commission on Accountability, the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government dealt with these matters, and the recommendations of all of them would be consistent with the amendment which has been moved by the member for Armadale.

The Deputy Premier said we should not be concerned. His words were that he would be surprised if, inter alia, the commitments which are contained in the sale agreement and the lease were not made public. I am sorry to say I would not be surprised if they were not made available. This is not necessarily because of the Deputy Premier; it is because of the track record of his Government. I will give an example. The former State Energy Commission entered into an agreement with Ord Hydro Pty Ltd for the private generation of power to supply Kununurra and Wyndham in the east Kimberley. Subsequently, I asked a question of the Minister for Energy about the arrangements which existed for occasions when Ord Hydro broke down, because from time to time the hydroelectric power station in that area is not able to operate and cannot supply power to the east Kimberley.

As a consequence, Western Power Corporation, as it is now known, must use its generating facilities to back up Ord Hydro. It is a legitimate area of public interest to ask, when this private contractor which has contracted to provide power to Western Power is not able to do so because of breakdowns or for whatever reason, what are the existing terms and arrangements under the agreement that will ensure that the people of Kununurra and Wyndham continue to get their power and, more to the point, what does Ord Hydro pay Western Power to compensate the other energy consumers of Western Australia for the fact that that service must be provided?

That is a legitimate area of public interest that I, as a member of Parliament representing some 20 000-odd consumers of Western Power, whom one would hope are being paid something in those circumstances, should be able to ask the Minister for Energy. I was informed that a clause of the agreement between Ord Hydro and Western Power was such that I could not be told. Not only the price, but also the terms of the agreement cannot be put in the public arena.

The member for Armadale alluded to a matter concerning Les McCarrey, in which even the terms of the commercial confidentiality clause - that is, the clause itself which says that the rest of the agreement is commercially confidential - are so confidential that they cannot be released into the public arena. The Deputy Premier said he would be surprised if these terms were not put in the public arena. I hope he is right. However, I would not be surprised if they were not.

Amendment put and a division taken with the following result -

## Ayes (17)

Ms Anwyl  
Mr Brown  
Mr Carpenter  
Dr Edwards  
Dr Gallop

Mr Graham  
Mr Grill  
Mr Kobelke  
Ms MacTiernan

Mr Marlborough  
Mr McGinty  
Mr McGowan  
Ms McHale

Mr Ripper  
Mr Thomas  
Ms Warnock  
Mr Cunningham (*Teller*)

## Noes (23)

Mr Ainsworth  
Mr Baker  
Mr Bloffwitch  
Mr Bradshaw  
Dr Constable  
Mr Court

Mr Cowan  
Mrs Hodson-Thomas  
Mrs Holmes  
Mr MacLean  
Mr Marshall  
Mr Masters

Mr Nicholls  
Mr Omodei  
Mrs Parker  
Mr Pandal  
Mr Prince  
Mr Shave

Mr Trenorden  
Mr Tubby  
Dr Turnbull  
Mrs van de Klashorst  
Mr Osborne (*Teller*)

## Pairs

Mrs Roberts  
Mr Riebeling

Mr Board  
Mr Barron-Sullivan

**Amendment thus negated.**

**Clause put and passed.**

**Clauses 16 to 28 put and passed.**

**Clause 29: Rectifying error in transfer order -**

Mr COWAN: As is often the case in legislation as large as this some minor issues need to be dealt with. This clause makes a slight change to the wording that is partly grammatical. Some people argue strongly that it is not necessary. However, advice from parliamentary counsel is that it should be changed. I move -

Page 15, line 28 - To delete ", or State agency" and substitute "or agency of the State".

Page 16, lines 2 and 3 - To delete ", or State agency" and substitute "or agency of the State".

Ms MacTIERNAN: Who drafted this legislation? If it was not the parliamentary counsel could the Deputy Premier explain why we have a different arrangement, and what the cost of that is?

Mr COWAN: It was drafted by parliamentary counsel on specific instructions from advisers to the minister. The counsel who was responsible for the drafting of this legislation has taken leave and other counsel has advised this might be a more appropriate form of wording. We are not quibbling with that; we are seeking to implement the changes that have been recommended by another parliamentary counsel.

Ms MacTIERNAN: I am intrigued that a person from a private law firm is acting as the minister's adviser in place of parliamentary counsel. We know that one person is on leave. Why is a person from a private law firm here?

Mr COWAN: Mallesons Stephen Jaques was retained by the Crown Solicitor's Office to provide advice and support services to that office.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clauses 30 to 33 put and passed.**

**Clause 34: Designating government railway land as corridor land or land other than corridor land -**

Ms MacTIERNAN: I move -

Page 18, line 20 - To delete "The" and substitute "Subject to sub-clause (2), the".

Page 18, after line 22 - To insert the following -

(2) This clause does not apply to the following standard gauge lines -

Kalgoorlie - Kwinana  
Leonora - Kalgoorlie  
Kalgoorlie - Esperance.

Before I speak to the substance of the amendments I ask the Deputy Premier to clarify a relevant point he made in *Hansard* last night about a later clause in the Bill which exempts the lines the subject of the intergovernmental agreement from the Australian Rail Track Corporation and which will operate outside the code.

Mr COWAN: Last night I quoted a clause of the Bill which deals with corridor land. However, in this instance, the clause to which the member refers is not the clause I quoted last night, but clause 65(3) on page 35. If the member examines that she will be satisfied with the request made.

Ms MacTIERNAN: I want to clarify that the exemption the minister is talking about is an exemption only from the application of the unapproved and uncertified state rail access code.

Mr Cowan: As it is in Victoria, Queensland and New South Wales.

Ms MacTIERNAN: It has been approved in New South Wales.

Mr Cowan: To my knowledge it has not.

Ms MacTIERNAN: That is not the story I have heard.

Mr Cowan: I acknowledge that in New South Wales it is close, but it has not yet been formally certified.

Ms MacTIERNAN: And in reality this Government's process has just started. It took the Deputy Premier a long time to produce it. I was amazed to find that it did not arrive in the post box until March 1999. It is my strong belief that the Government does not have a desire to have this process up and running before it goes out to tender.

In the amendments I moved I seek to exempt from the operation of this legislation the Kalgoorlie-Kwinana, Leonora-Kalgoorlie and Kalgoorlie-Esperance rail lines. I do not want the amendments to be interpreted as meaning that the Australian Labor Party does not have a concern about other lines; rather, that the Government's proposal for these particular lines is even more inappropriate than its proposal for the other lines. We have explained at length during the second reading debate and the debate on earlier clauses that the interstate line should not in any way, shape or form be described as a low volume regional rail system. The Government has adopted the policy of proceeding down the path of a vertically integrated rail system which will be handed over to a private company. In order to justify its position it has quoted the Productivity Commission. The Productivity Commission has said that a low volume regional rail with vertical integration may well be the best way to go. It went on to say that there are arguments either way with high volume regional rail networks depending on the multiplicity of users. There is certainly a multiplicity of users in this network.

The Deputy Premier then made the extraordinary statement in Parliament that he considered the east-west line to be a low volume regional rail network, an absolutely extraordinary proposition to which Westrail does not prescribe. Westrail has not said in its definition that the east-west line is a low volume regional rail network nor has the Productivity Commission. This is a system set up on the basis of a low volume regional rail network and it applies to two rail lines that cannot and should not be described as such. The Deputy Premier has made a grave mistake in that regard.

The second problem that we suggested to the Deputy Premier during this debate is our belief that these particular lines should be handed over to the Australian Rail Track Corporation as it has indicated that it would be proper to provide funding to upgrade the rail system, particularly the Widgiemooltha-Esperance portion of that rail network. I want to quote what the minister said.

Mr Cowan: I will give the member for Armadale a chance to speak again.

Ms MacTIERNAN: The minister said that I commented on the Australian Rail Track Corporation and the promise of \$35m for the Esperance-Kalgoorlie line. He further stated that the matter was also raised by the members for Eyre and Kalgoorlie. I am sure the members for Eyre and Kalgoorlie know that the Australian Rail Track Corporation is intended to provide services from capital cities.

#### *Point of Order*

Mr COWAN: Mr Deputy Chairman, I do not think the member should quote from the daily *Hansard*.

The DEPUTY CHAIRMAN (Mr Sweetman): That is correct. Member for Armadale, the Deputy Premier has raised an issue that you are quoting from the daily *Hansard*.

Ms MacTIERNAN: I will simply not quote it.

Mr COWAN: Just read from it!

#### *Committee Resumed*

Ms ANWYL: I am interested to hear the further remarks from the speaker who presently has the call.

Ms MacTIERNAN: I thank the member for Kalgoorlie. I certainly would not like to repeat verbatim the Deputy Premier's comments. My recollection of what the Deputy Premier said is that he believed that the Australian Rail Track Corporation intended to provide services from capital city to capital city. He went on to comment that as much as he liked to think that Esperance had a great future, it was not likely to usurp the role of Perth as a capital city.

Mr Cowan: Do you dispute that?

Ms MacTIERNAN: I think that part of the Deputy Premier's statement is accurate. He went on to say that in his view any funding which would have been provided to the ARTC would not fall within the corporation's terms of reference. We have had cause to have frequent dialogue with the ARTC. We have found out, of course, that the truth is something quite different. I will not quote from the daily *Hansard* but from a letter from Hon Mark Vaile MP, a fellow National Party member, and at the time the Federal Minister for Transport and Regional Development. He wrote to the chairman of the Esperance Port Authority and made the following points -

The Federally owned Australian Rail Track Corporation (ARTC) has already raised with the WA State Government the potential for this line to be managed as part of Australia's national rail network.

The Federal Government obviously does not see it as outside the charter. He continues -

If this were achieved, it would enable the ARTC to undertake investment opportunities on the corridor, improving travel time and reliability.

It is very distressing to see the minister responsible for this legislation and the Deputy Premier of this State absolutely misunderstanding the fundamental structures governing rail in this State and in particular governing those lines. I also note the following comment which should be cited. Hon Mark Vaile went on to say that developments with the proposed sale of Westrail were currently precluding him from committing any funding to the rail upgrade until the status of the Kalgoorlie-Perth interstate line has been determined.

The Deputy Premier really needs to apologise to me, the member for Kalgoorlie and the member for Eyre. We got it right; the ARTC does want to take over the Leonora-Esperance line. It is prepared to find funds to put into that line. Although it may not be within the strict terms of its current charter, there is no difficulty in the minds of the federal minister or the ARTC that it can do so. I think the arrangement has been discussed and put to the State Government, about which we have been grossly misled by the Deputy Premier in his comments the other night. The funding was being talked about by the Deputy Prime Minister - another National Party member. They obviously do not talk to each other. The funding will be allocated through the commonwealth investment program for infrastructure for the interstate network. If Leonora-Kalgoorlie became part of the interstate network, it would become eligible for funding. The advice we have had from the chief executive officer of the ARTC is that the ARTC would administer those moneys as a trustee on behalf of the Federal Government, if those moneys were allocated. Therefore, the statements the Deputy Premier made were misleading. If the Government does not want to run these lines - it has made it very clear that it does not want to because it has not got the money to run them or the \$35m that is needed to upgrade those lines and to remove the 42 speed restrictions - the minister should hand them over to the ARTC. It is ready, willing and able to run both the east-west line and the Kalgoorlie-Leonora line, and to run them properly and in a way which would allow a level playing field for all the private and government rail that wants to proceed over those tracks.

Mr COWAN: The member is making a case based on an assumption that the ARTC has some priority for the lease of track in Western Australia. It is one thing for people to make a statement about their ideals or desires, but when it comes to the availability of funds for the purposes of fulfilling them, sometimes the statements of good intent do not necessarily come to fruition.

Ms MacTiernan: That is different from what you were telling us the other night. You said they would not do it.

Mr COWAN: In this case I would be surprised if the Federal Government were to determine that it should authorise expenditure through the ARTC to have some acquisition of a lease of track in Western Australia, and certainly track that is not the main east-west line. I do not think it would even spend money on the east-west line. It would be more likely to spend it on that though than on the Esperance-Leonora line. It is really just a matter of priority for the ARTC and the Federal Government.

Ms MacTiernan: Your statement the other night was that we had got it wrong and that they could not take over.

Mr COWAN: I am saying that they will not. They will not support it because they would set their priorities based on volume. As much as we would like to build the volume on the Esperance-Kalgoorlie, Kalgoorlie-Leonora line, there is not sufficient volume to attract groups such as the ARTC.

It is interesting that effectively the member is saying that we should support amendments that will exclude the operator; that is, on the understanding we have had during the debate, the freight business which also acquires a lease on the track. We are saying that operator will be denied the right to lease the east-west line and the Esperance-Kalgoorlie, Kalgoorlie-Leonora line. The east-west line, even though we will argue in debate whether it is high or low volume, is still utilised to only 60 to 70 per cent capacity or thereabouts. It represents around 30 per cent of the total traffic of Westrail's operation's. Effectively, the member is saying that we will deny the operator the opportunity to lease the track that provides 30 per cent of the operations of Westrail. That being the case, we reject it completely.

Time and again in this place, the member for Armadale makes assumptions, which, if they are not challenged constantly, she assumes are accepted by everybody as fact and then uses them as examples of why we should or should not do things. I refer to my statement about the volume of traffic and freight on the line. It is not necessarily regarded as a low-volume freight line. The decision was made on the basis of what is good for the State. The Organisation for Economic Cooperation and Development report on rail traffic clearly states that the best system is a vertically-integrated operation with a very strict and rigorous third-party access regime.

Ms MacTIERNAN: The Opposition is operating with the information the Government has provided. The Deputy Premier keeps talking about recommendations and examples of systems with vertical integration and competition. We ask for examples, and he keeps saying that they will be provided in the fullness of time. The statement that the Government is treating this as a low-volume regional railway comes from the Deputy Premier's speech to this Parliament. He should read his second reading speech.

Mr Thomas: It is the Productivity Commission report.

Mr Cowan: There are a number of reports. You were very keen to quote the Productivity Commission report.

Ms MacTIERNAN: I did that because the Deputy Premier quoted it!

Mr Cowan: That is fine, but if you want evidence to the contrary -

Ms MacTIERNAN: Show us the report. The Deputy Premier has been wrong on every other occasion.

Mr Cowan: I will give you the executive summary if you sit down.

Ms MacTIERNAN: We picked that provision in the Productivity Commission report because that is precisely what the Deputy Premier used in his second reading speech to justify choosing the vertical integration route. He said that the Government acknowledges that its choice of vertical integration has been challenged - as indeed it has been by the Opposition. However, the Government is standing by it for a particular reason. He then went on to quote the Productivity Commission report. Now he is attacking members on this side for mentioning that report. We read the rest of the report and pointed out that the section to which he referred related only to low-volume regional rail lines. The Productivity Commission report explicitly stated that we need vertical separation on the east-west network.

We are trying to make some sense of what the Government is trying to do. We do not agree with the sale of the rail in this manner. However, if the Government intends to do this by way of vertical integration, let us at least remove those lines on which we know there is competition and which involve a number of players. We know that that competition will be threatened by a vertically-integrated structure. Inherent in the Deputy Premier's statement that savings derive from a vertically-integrated operation that ipso facto ensures that only one operator can be vertically-integrated is the fact that all the other competitors are disadvantaged vis-a-vis that successful operator. The notion of vertical integration and competition are mutually exclusive, other than some niche marketing. The full-bodied competition that we want -

Mr Bloffwitch: Wait until you see the regulations.

Ms MacTIERNAN: The Government is asking us to approve a piece of legislation -

Mr Bloffwitch: The regulations will spell it out.

Ms MacTIERNAN: The regulations are in the mail! This is unbelievable. I am now interested to see this latest mystery report. Let us hope the Deputy Premier has been a little more accurate in quoting it than he has been in quoting others in the past.

Mr COWAN: I have not quoted from the report. I am prepared to table the executive summary for the member's benefit.

The DEPUTY CHAIRMAN (Mr Sweetman): Not during the Committee. There are other ways to provide the information.

Mr COWAN: I will give the member the opportunity to study this document. I do not need to table it. She wanted it, but I am not sure many other members are interested.

Ms Anwyl: I am very interested.

Mr COWAN: I must again refute the member's contention that there will not be competition on the standard gauge line. There is already significant competition on that line.

Ms MacTiernan: Westrail was dragged screaming to allow it. An order was issued against it.

Mr COWAN: Again, that is not correct.

Ms MacTiernan: Do you deny an order was issued?

Mr COWAN: The National Rail Corporation legislation was a clear starting point and acknowledgment of the fact that Westrail would be required to deal with interstate traffic in such a way that not everything came to a thundering halt at Parkeston, but was transferred to Kalgoorlie and then picked up by Westrail and transported the rest of the distance. There was a very clear indication that Westrail would have to change its practices.

Ms MacTiernan interjected.

Mr COWAN: I am not familiar with the subject about which the member interjected. However, the purpose of this amendment is to exclude the interstate line - the east-west standard gauge line - and the Kalgoorlie to Esperance and Kalgoorlie to Leonora lines from any lease with a proposed operator. That is not the Government's intention. It intends to ensure that any future operator of the State's freight services will be able to lease the track within the State's responsibility through Westrail. It is nonsensical to exclude any part of that system. As the member has correctly stated, we are proposing a vertically-integrated system with an operator purchasing the freight business and leasing the track. There will be a third-party access regime - anyone who wants to use the railway line will have access to it - and that regime will be rigorously applied. The proposed operator should not lose access to the standard gauge. That would deny that operator the opportunity to lease it, the State Government would have the ownership of it and all those conditions would still apply. We would still be denied access to capital and we would become more reliant on the Commonwealth for capital funding in those areas. The Australian Rail Track Corporation has not been very forthcoming in the provision of funds for Westrail, even in meeting its terms of reference to provide funds for the east-west line.

Ms MacTiernan: You will not go into the national scheme in any credible way.

Mr COWAN: Why should the State give away its assets at bargain basement prices to satisfy the Commonwealth? We will certainly not do that.

**Progress reported and leave given to sit again.**

[Continued on page 9582.]

**ROCKINGHAM ELECTORATE, STORM DAMAGE***Statement by Member for Rockingham*

**MR McGOWAN** (Rockingham) [12.50 pm]: I inform the House about certain events which took place in my electorate of Rockingham last Thursday night. A range of storms passed over Rockingham which caused considerable damage to houses in the Safety Bay, Waikiki and Warnbro areas. The damage that was caused fortunately involved no injuries as far as I am aware. However, it involved many thousands of dollars worth of damage to residents' roofs and fences. It also involved a lot of damage to Safety Bay Primary School, which is in the process of being repaired. I thank the Rockingham State Emergency Service as well as other SES organisations throughout the Perth metropolitan region. They swung into action not more than a few minutes after the storm passed. I thank in particular Bob Polson who was in charge of operations on that occasion, as well as all his dedicated volunteers, who had very little sleep. I also thank the staff of Safety Bay Primary School, who performed very well and did a lot of work the next day and since then. I also congratulate the parents of the children at Safety Bay Primary School for their forbearance and understanding last Friday when the children were required to stay at home.

**KINCARE CARERS FORUM***Statement by Member for Southern River*

**MRS HOLMES** (Southern River) [12.51 pm]: I recently had the pleasure of attending the Kincare carers forum which was held at the Addie Mills Senior Citizens Centre in Gosnells. Kincare is an organisation which is made up of carers of handicapped people. This was the first forum of its kind which provided the means for these people to get together to discuss their concerns and needs. Although I was unable to attend the whole of the event, I was left in no doubt about its success from the minute I arrived. The atmosphere was that of a team of people working together in friendship and in sympathy. This was backed up by the feedback I obtained from the participants who stated that the event was enjoyed and appreciated by everyone present. Carol Franklin, the president of Kincare, is to be congratulated on her initiative, which I hope will become a catalyst for the State. To progress this, I intend to request a meeting so that Carol and I can meet with the Minister for Disability Services with a view to advancing her concept for the benefit of others in a similar position. At the forum I was honoured to become the patron of Kincare and, as such, I was presented with a beautiful plaque which has pride of place in my electorate office. As the patron of this excellent organisation, members can rest assured that I will do everything I can to assist them achieve their aims to better their lives and those of their handicapped loved ones.

**O'CONNOR EDUCATION SUPPORT CENTRE, SNOEZELN ROOM***Statement by Member for Kalgoorlie*

**MS ANWYL** (Kalgoorlie) [12.53 pm]: I will congratulate several people in my electorate, who work at the Education Support Centre of the O'Connor Primary School. On Monday I had the pleasure of opening the O'Connor Education Support Centre's Snoezelen Room. The Snoezelen Room is designed for disabled students to have somewhere to go to have time out from their classes. Students who are in wheelchairs, who have very cramped muscles and who have attention deficit disorder and other behavioural issues which involve hyperactivity now have a very calm and soothing place to go. The coordinator, Michelle Richards, is a teacher of unequalled dedication within the O'Connor Primary School and Jarna Craig, who is the principal of the Education Support Centre, have done a huge amount of work to get this running. The room was made possible through the WMC Resources Sir Lindesay Clark trust fund, the public education endowment trust, and particularly the local sponsors, Mitre 10, Goldfields Metal Industries, Hatch Electrical, Fiesta Canvas and Lorraines Curtains and Fabrics. They have contributed to provide an important initiative which has been copied from a model which originated in Holland and which has equipment imported from the United Kingdom. I congratulate all those involved.

**RALPH TAXATION REPORT***Statement by Member for Geraldton*

**MR BLOFFWITCH** (Geraldton) [12.55 pm]: I will make a few comments about the Ralph report which is a taxation report that has been put out for discussion. The first issue in the report with which I do not agree is that it talks about doing away with depreciation. In doing away with it, a tax rate of 30 per cent for businesses will be introduced. It is very hard to justify buying high price capital equipment if there is no depreciation rate. There is something even more sinister in this report: It wants to treat cooperatives in exactly the same way that proprietary limited companies are treated. When the rebates are distributed, which belong to members in a cooperative - it is my discount that it has been getting for me - it has been suggested that they be taxed at the total profit rate. Let us say that the cooperative in which I am involved earns \$2m a year and that money is distributed to the members. It has been suggested that that \$2m be taxed at the 46 per cent rate and a franked dividend is then paid. If that is done, the cooperative movement will be destroyed. The only way to raise capital is through the profits that are regenerated through shares to the members. I will certainly write to the Ralph committee and I do not support this report.

**BEEHIVE KILNS, BELMONT***Statement by Member for Thornlie*

**MS McHALE** (Thornlie) [12.56 pm]: Today the new Heritage Bill was second read so it is perfectly timely for me to raise the issue of the beehive kilns in Belmont and their future. I raise this matter to put on the public record firstly, my concerns that these historic icons are under serious threat of demolition; secondly, to ensure that the Minister for Heritage ensures their protection; and thirdly, to express my disquiet that the Belmont Historical Society was refused access to the kilns to inspect

their state of repair. These 100 year old kilns, referred to as beehive kilns, represent a rare aspect of our industrial heritage; yet five of the eight kilns and two of the chimneys are threatened with demolition to make way for a road alignment. The cluster of kilns is unique to Australia. Therefore Western Australia has something of national significance. They are on the state heritage list and have been placed on the National Heritage Trust's endangered buildings list. It is noteworthy that Perth is hosting the international ceramics conference in July. It will be a tragic and embarrassing irony if we lose such unique heritage. We should stop the erosion of our heritage for the sake of our past and our future.

### AUSTRALIAN CONSTITUTION, PREAMBLE

*Statement by Member for Vasse*

**MR MASTERS** (Vasse) [12.58 pm]: The Australian people will vote in November on a preamble to the Australian Constitution. I have certain concerns about the wording of the preamble that has been suggested by the Prime Minister and Les Murray. I was therefore pleased when Ms Lucy Roberts, a political science honours student at the University of Western Australia accepted the task of reviewing the preamble as a parliamentary internship project. The challenge I presented Ms Roberts with was to review and, if appropriate, rewrite the Prime Minister's preamble so that it formed the basis of "A Vision For Australia" in the knowledge that the preamble would be the first words read by Australians when they consulted our Constitution. I am happy to provide a copy of Ms Roberts' report to any member of Parliament upon request. However, I take this opportunity to read the preamble suggested by Ms Roberts in her report.

We the people of Australia

Humbly relying on the blessing of Almighty God,

Acknowledge the original occupancy and custodianship of Australia by Aborigines and Torres Strait Islanders,

Recognise the great enrichment immigrants have brought to our nation's life, and celebrate our cultural diversity.

We are proud of the peace, freedom and equality found within our nation and protected by our democratic Government and the rule of law. We value tolerance and fairness, and the dignity of others within our society.

We commit ourselves to the protection of our ancient and unique land for the benefit of generations to come.

In this spirit we commit ourselves to this Constitution.

There is no reference to mateship.

*Sitting suspended from 1.00 to 2.00 pm*

### SUPERANNUATION AND FAMILY BENEFITS AMENDMENT BILL 1999

### OCCUPATIONAL SAFETY AND HEALTH AMENDMENT BILL 1999

*Ruling by the Speaker*

**THE SPEAKER** (Mr Strickland): I refer to two private members' Bills dealt with by the House yesterday afternoon, namely the Superannuation and Family Benefits Amendment Bill 1999, and the Occupational Safety and Health Amendment Bill 1999.

The Superannuation and Family Benefits Amendment Bill 1999, introduced by the member for South Perth, opens up an additional category of people entitled to superannuation benefits. In its 1998 annual report, the Government Employees Superannuation Board notes that benefits paid to members and beneficiaries of the pension scheme are guaranteed to the extent that sections 30, 46, 62 and 83AA of the Superannuation and Family Benefits Act provide for the State to pay the required employer share of benefits and to supplement any actuarially determined deficiency in the funds used to pay the benefits, and also that the consolidated fund is permanently appropriated for the purpose of meeting the State's obligations.

I rule that the Bill has the effect of appropriating revenue and therefore requires a message from the Governor under section 46(8) of the Constitution Acts Amendment Act 1899. While it may remain among the Orders of the Day for the time being, it will be placed at the foot of the Notice Paper at the end of the second reading debate, before the question for the second reading is put to the House, unless of course a Governor's message is received.

I note that debate on the Occupational Safety and Health Bill 1999, proceeded directly after the member promoting it had given his second reading speech, and while this is permissible under the standing orders and occasionally may be necessary, as a general rule I caution against it. The Minister for Police mentioned in his speech that one of the reasons for proceeding was that some police officers had been encouraged, through a police union newsletter, to come and hear the debate and that he thought they should hear the Government's view on the matter. Without commenting on the minister's decision, or this Bill in particular, I remind members that unless a Bill is considered to be urgent for some reason, the House works on the principle that notice is given of matters to be dealt with, in order that members have an opportunity to consider issues involved and to consult as necessary. Although it is not always the case, there is more than a little truth in the oft-expressed view that rushed legislation can be poor legislation.

Not only that, but as members well know, the Speaker must act to ensure that the rights of this House are protected, and often considers whether Bills are money Bills for the purposes of various subsections of section 46 mentioned earlier. Section 46 has several facets, one being the upholding of the financial prerogative of the Crown, requiring that an appropriating Bill cannot proceed without a message. So while the section provides that certain Bills may commence only in the Assembly,

it also in a sense works against private members of this House by requiring in effect that Bills which involve an appropriation must have government approval. This provision is important in our constitutional system as government must be able to control the State's finances. On this occasion the speed with which the proposed legislation was dealt at the second reading overtook the crosschecking on whether an appropriation might be involved. While speed has its advantages, undue haste does not. Having now had an opportunity to consider the Bill, I advise the House that I do not consider it as one that appropriates revenue.

**[Questions without notice taken.]**

**STATE HOUSING AGREEMENT, GOODS AND SERVICES TAX**

*Tabling of Documents*

**DR HAMES** (Yokine - Minister for Housing) [2.42 pm]: During question time over recent days, the Leader of the Opposition requested that I table correspondence dealing with negotiations with the Commonwealth Government on the State Housing Agreement and the goods and services tax. I take this opportunity to table letters from me to Senator Jocelyn Newman.

[See paper No 1052.]

**FIRE SERVICE LEVY**

*Matter of Public Interest*

**THE SPEAKER** (Mr Strickland): Today I received a letter from the member for Rockingham seeking to debate as a matter of public interest the following motion -

That this House condemns the State Government for its offensive and overbearing treatment of local government authorities including the Government's incompetent handling of the fire service levy resulting in the gross waste of ratepayers' funds and its attempts to prevent democratically elected local authorities exercising their rights.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis, with half an hour allocated to members on my left, half an hour to members on my right, and five minutes to the Independent members, should they seek the call.

**MR MCGOWAN** (Rockingham) [2.44 pm]: I move the motion.

This Government is characterised by three things; incompetence, hypocrisy and authoritarianism. In recent weeks this Government has been run by the B team - a Government in which the so-called towering intellects of ministers are being run by the B team. By the B team I mean the boofhead, the banana split and bilby man. These three backbenchers are telling this Government how to run its affairs. It has happened with de facto laws, prostitution laws, the outlawing of driving while using a mobile telephone, animal welfare laws and those laws affecting medical care of the dying. The Government has committed to all these things and the B team has knocked it off. It is putting before the Parliament things it does not have a mandate for, such as the sale of Westrail and AlintaGas. The Government does not have a mandate for the sale of those enterprises. However, in the party room of the Liberal Party, the B team has knocked over the front bench by stopping the Government dealing with issues for which it has a mandate. That fact is acknowledged by all independent commentators in this State.

Today we will deal with another issue the B team has stopped the Court Government dealing with; that is, the fire service levy. The members for Wanneroo, Vasse and Joondalup - the three Bs - have knocked off the front bench over the fire service levy. Members need only look at the history of this issue to see how bad and incompetent the Court Government's management of this issue has been. In August last year, the Minister for Emergency Services put out a press release on this issue. He said the State Government would introduce a fairer and more equitable form of funding Western Australia's fire and rescue service from 1 July this year. That statement was released a year ago. The Minister for Emergency Services released another press release in November last year stating that this great new system would definitely be introduced and the funds would be collected by 34 local government authorities throughout the State. This was to be a massive improvement according to the Minister for Emergency Services. In May this year, six weeks before the levy was due to be introduced, the Minister for Emergency Services put out an obscure press release.

Mr Prince: And a ministerial statement in here.

Mr MCGOWAN: The press release said "Sorry, we will not be going ahead." The minister can defend it all he likes; his actions on this one are indefensible. The press release said this levy would no longer be introduced by the Government. The fire service levy was no longer on the Government's agenda despite it twice being promised to local governments throughout the State. The Government twice promised this levy to the insurance industry and twice it promised that, in effect, residents would pay less for their fire insurance. That commitment was made by the Minister for Emergency Services. Members might ask why it matters, it is just a demonstration of incompetence on the part of the minister; but it does matter. This backflip has caused immense confusion and turmoil in local government and the insurance industry and it has cost the public of this State a lot of money.

Mr Omodei: Pretty easily confused then.

Mr McGOWAN: I will deal with the Minister for Local Government in a minute. His turn is coming, I will do him slow. I have here a statement indicating the cost of the Government's backflip on the fire service levy to local government. The upfront cost to local government is \$100 000. Thirty-four councils have been affected by this and the cost to each ranges from \$6 000 for the Stirling City Council to \$2 000 for the Peppermint Grove Shire Council. However, I believe that underestimates the total cost because I have correspondence from the City of Joondalup indicating that the levy has cost it and the City of Wanneroo \$8 000 each. Although \$100 000 is a large sum of money for one man's foibles, it is not the total cost. This is a loss incurred because the B team is telling the Government what to do. There has been a loss of \$100 000 to councils throughout the State. The Government cannot deny that. It has cost the ratepayers of this State \$100 000.

In my view, the Government should reimburse the councils that have been affected by the loss of that sum of money. I have been given some indication that it will consider taking that course of action in the future. However, lest the Minister for Police stand up in this place and say that it is all okay and that the State will reimburse local authorities that \$100 000, I ask members to remember this: That money is still coming from the taxpayers. It is not as though it has come out of thin air. These losses of \$8 000 suffered up-front by some councils are still coming from the taxpayers of this State. In my time in this Parliament, I cannot think of a greater example of incompetence and of misleading people than this incident.

Councils throughout this State have changed their computer systems, they have acquired different stationery, and their staff have undergone training. Thirty-four councils in the permanent fire services districts will now have major holes in their budgets. The reason is that ordinarily councils were paying 12.5 per cent of the annual costs of the fire service. The minister sold the new system on the basis that councils would no longer have to remit that 12.5 per cent, and naturally they believed him. He is a minister of the Crown, and they believed him. Therefore, they started preparing their budgets - we did not hear a peep from the minister about this - and their budgets incorporated the fact that this amount of money, which totals \$8m throughout these 34 councils, would form part of their budgets for spending on their local authorities. This \$8m now must be found by these councils from somewhere. Six weeks before their budgets were due to be prepared, these councils had to find this money, due to the minister's failure in this respect. The minister can laugh all he likes. However, everyone here knows that -

Mr Omodei: You do not understand the issue; that is the problem. The issue was around when the Labor Party was in power. Why did it not do something about it?

Mr McGOWAN: The minister can say that as much as he likes. The issue has been around for 10 years. We did not put out press release after press release. We did not tell councils that it would come in on 1 July; this Government did. It is the sign of an arrogant, incompetent Government. The minister took the matter into the joint party room and he got rolled by the B team. It must have been hilarious: The minister stood up and said how fantastic this new system was, and he got rolled by the bores on the backbench. That is what happened to the minister.

There has been a loss in direct money, and major holes have developed in the budgets of local authorities throughout this State. What is more, the insurance industry was also informed that this would be put in place. It also expended significant funds on computer systems, staff time, reworking stationery and so on, only to be informed by the minister, six weeks before the time for implementation, that it would not happen.

Mr Omodei: Are you saying that if you had been in power you would have introduced it by now?

Mr McGOWAN: I am not in power; the Liberal Party is. However, I will deal with the Minister for Local Government in a minute. He should just sit there quietly because his turn is coming.

To remind the Minister for Emergency Services who made the promise, I refer to a press release of 25 November 1998 by the Minister for Emergency Services, which stated -

Emergency Services Minister Kevin Prince announced that the new levy would be introduced from July 1 . . .

Mr Prince: That is right.

Mr McGOWAN: I will inform the Minister for Emergency Services of the facts - he may need to talk to his advisers about this. The press release stated -

Mr Prince said local government authorities could expect their contribution to the operating costs of the fire services to fall by \$7 million a year under the new proposal.

There is a hole of \$7m to \$8m in the budgets of local councils.

Mr Omodei: How can you say that?

Mr McGOWAN: The reason I can say that is because the Government also committed about \$1m in respect of the collection costs of this levy. The minister knows that is true. A range of local authorities, such as Cockburn, have complained about this failure on the minister's behalf.

The second issue I raise -

Mr Trenorden: Why is this matter so urgent? Tell us why it is so urgent

Mr McGOWAN: The member may think it is funny for the councils to lose funds; however, I do not think it is funny. The member can sit there and do nothing. However, it is an important matter.

Yesterday, we had to endure the Minister for Local Government standing up in this place during question time to announce

to this Parliament that he, God's gift to local government, would be enacting new laws to stop democratically elected councils exercising their democratic right to choose from where they wanted to purchase products. A range of councils in this State - I suspect there will be many more in the future - have decided, on the basis of the wishes of their ratepayers - on the basis of the wishes of 87 per cent of the population of this State - that they no longer wish to purchase products from companies involved in woodchipping old-growth forests. Four local authorities that I can think of off the top of my head - that is, the Town of Cottesloe, the Town of Vincent, the City of Nedlands and the City of Fremantle - have decided to follow that course. I expect that a range of other councils will also adopt this policy. Some councils are considering the introduction of this policy at the moment, including the City of Subiaco, the City of Rockingham and the Shire of Serpentine-Jarrahdale.

Recently, the City of Nedlands, which is a democratically elected body, went ahead and affirmed that policy. All of these councils are democratically elected, and they have a right to act on behalf of their ratepayers, so long as their actions are not improper or illegal. They are the two constraints. A couple of years ago, this Minister for Local Government said to all and sundry that he supported independent and strong local government.

Mr Omodei: I still do.

Mr McGOWAN: What a hypocritical statement that was, because yesterday during question time he said that he supports strong and independent local government, provided it does not do anything against his political interests, and his political interests, of course, include his electorate and the people who vote for him. He is using his ministerial office in an improper way. When considering improper conduct, one should look at the way he is using his ministerial office in this fashion, because it is completely inappropriate. It is a fascist, authoritarian, totalitarian, hypocritical act, which is wrong. During question time, the Premier gave his usual non-answer, although, in effect, he supported the Minister for Local Government and what he was trying to do, which is to stop democratically elected local authorities doing what they want to do on behalf of their ratepayers.

Mr Omodei: Can I interject?

Mr McGOWAN: The minister will get his chance. The Premier backed the minister's actions. The Premier is a hypocrite. In the two years I have been in this place, and the six years he has been Premier of the State, people have had imprinted on their minds the Premier bouncing on his feet at question time saying, "The State will not be dictated to by the Commonwealth and we will do what we want in relation to financial relations, health arrangements, native title and the republic." The Premier speaks in that fashion every day in this place; it is like listening to a broken record. Yet the Premier has the temerity to come into this House and back the Minister for Local Government for doing exactly the same thing to the third tier of government. It is complete hypocrisy. The ratepayers of these local authorities know that it is complete hypocrisy on the part of the Premier and the Minister for Local Government.

One need only read today's *The West Australian* about the City of Fremantle. A few years ago the City of Fremantle took a stand on issues relating to the French Government. According to the logic of the Premier as expressed at question time, it should not have done that. The City of Fremantle was acting in accord with the interests of its ratepayers. We need to look at the motivations of the Government. As soon as an issue affects the Government's political interests, it steps on local government. However, as soon as it affects the political interests of the Minister for Local Government or a major donor to the Liberal Party - Noel Crichton-Browne said that the woodchipping companies are major donors to the Liberal Party - it acts to stop local governments carrying out their legally authorised responsibilities. I will bet that the Minister for Local Government would not act in this way if it affected the interests of Len Buckeridge. The minister is using his office improperly to benefit himself. That is what this about. Not only is it authoritarian and hypocritical, it is also complete stupidity because it is counterproductive.

The public of this State are now aware that they have a choice on old-growth forests. Every time this minister opens his mouth and says that he will stop councils doing what they are democratically elected to do, the people of this State will realise they must make a choice between a party committed to old-growth forests - to saving the last 8 per cent of this wilderness - and the rabble that does not know what it is doing on this issue. Every time the minister opens his mouth about this issue, the people of this State find out more of the truth of this matter. In recent days, shenanigans going on between the National and Liberal Parties have attracted public attention. The public of this State should not be fooled by that. Only one major political party in this State is committed to the old-growth forests, and it is the Labor Party.

I have given two examples of authoritarianism, hypocrisy and incompetence: The fire service levy and the minister's actions in threatening local authorities throughout this State. The more the minister threatens, the more that they will rebel against him. It is about time the minister realised that.

I raise one last issue which points to authoritarianism with which the Government treats local government; that is, financial relations. In the past few weeks, the Federal Government announced once more that it will take control back from the States of financial assistance grants and will distribute financial assistance grants itself. That is directly against the wishes of the Minister for Local Government but it is supported by the Labor Party and by local government representative organisations around this State. When responsibility for financial assistance grants was handed to the State Government, I asked the Premier whether the Government would give local government a percentage share? The Premier's answer was that he did not support a percentage share for local government. The instant financial assistance grants were handed back to the Commonwealth Government, the Premier said local government should get a percentage of those revenues.

Mr Omodei: He did not say that at all. That is wrong.

Mr McGOWAN: That is, in effect, what occurred. The Minister for Local Government should talk to representative organisations. Although rates are exempt from the goods and services tax, the GST will affect a large number of the users

fees imposed by local government. The GST package refers to such services as the commercial activities of local governments. That could include school holiday programs, swimming pool entry fees, and bus services. Different local governments offer different services. If the service is interpreted as being a commercial activity, the GST will be imposed on it. It will be a massive burden on local government, which is not eligible for any financial assistance offered in the amelioration of this package to business. Yet we have not heard a peep out of the Government and the Minister for Local Government objecting to that. Local government is upset that the State Government has not done one thing about it. That issue is of huge significance to the public of this State. It is an authoritarian act. The public does not like councils being treated in this fashion and they are upset about this matter. I call upon the Premier to pull the Minister for Local Government into line, to put the B team back where it belongs and to get on with good government in this State.

**MR PRINCE** (Albany - Minister for Police) [3.08 pm]: Mr Speaker, welcome to the B team. It includes every person in this place who is not sitting on the other side. What an extraordinary matter of public interest. This is a Claytons MPI; the matter of public interest we have when the Opposition does not have one.

Nothing has been more in the news in the past 10 days than the Regional Forest Agreement. If the Opposition had brought on an MPI that referred to trees in some form or other, it would at least look like a matter of public interest. The fire service levy was an issue six weeks ago. The only point that relates to trees in this MPI is that the Opposition is helping to chop down more of them because the stupid words said by the member will have to be printed in *Hansard*. It is absolutely astonishing.

Mr McGowan interjected.

Mr PRINCE: I did not interrupt the member for Rockingham while he was speaking so he should show me the same courtesy. Good heavens! The member has gone on and on about the fire service levy and authoritarianism. I realise that the member did not practice in this State as a lawyer under Sir Francis Burt as Chief Justice. However, the Burt Commission on Accountability was appointed by the Labor Government of the day.

THE DEPUTY SPEAKER: I remind the minister to confine his remarks to the relevance of the matter of public interest that we are discussing.

Mr PRINCE: I am, Mr Deputy Speaker, this is extremely relevant. The Burt commission made a number of findings on the way in which the Opposition's lot handled government. I remember Sir Francis Burt conducting a seminar in the Legislative Council Chamber of this Parliament in 1993, not long after I had been elected a member. I sat and listened to him as I have the highest regard for the man. He said, among other things, that one of the most disturbing things he found in the Burt commission of inquiry was talking to some of the senior advisers to the Labor Government ministers of the day in which they said, "Parliament is an irrelevance. We control it." That is authoritarianism. The Opposition has a weird and twisted idea that democracy is in the caucus room. It is not; it is part of the democratic process. What occurs in the coalition party room is part of the democratic process. The separation of powers involves this Chamber and the other one; it involves Parliament; it involves the judiciary; it involves the elected Government of which I am a minister; it involves the appointed Government, that is, the Public Service; and it involves many other organisations including the media. They are all part of the democratic governance of this State. Members should think about that at quieter times. There are many parts to the democratic governance of this State. Local government is another part of it. It is a system up to a point, some of it unconnected but some of it very well connected. However, the point that the Opposition must clearly remember is that it is all part and parcel of a system of democracy. Whether a few people in a Caucus room say yes or no is not democracy. Whether a few people in a party room say yes or no is not democracy; it is but part of the process.

The fire service levy has been knocking around for 10 years or longer. The Insurance Council of Australia wanted it changed from the current system of a loading on the stamp duty on insurance policies - which has been in existence for 100 years and I can well understand why - because it is fundamentally unfair on those who insure fully because many people either do not insure fully or do not insure at all. In the case of many of the large buildings down there on St George's Terrace and in other commercial areas, the owners insure off-shore, not in order to avoid paying a fair share of the funding of the fire authority - whoever it may be from time to time - but simply because they can get a better insurance rate off-shore as they are part of a bigger pool and a bigger underwriting scheme. A levy that covers everybody is clearly fairer. It is something that I raised at Local Government Week last year. I always go to Local Government Week. I usually attend the Country Urban Councils Association and this year I have been invited to open the Local Government Association annual general meeting at 9 o'clock on a Sunday morning. I will attend that meeting and talk to them about something that is appropriate and current at the time. That association may well raise the levy. However, the point is the levy has been discussed and knocked around backwards and forwards with the WA Municipal Association and local government authorities for years and there has been a great reluctance on the part of many of those authorities to be involved in any form of levy; yet they have the database. It has taken an immense amount of time and energy in consultation with local government to get them to agree. They agree - terrific! It must start on a certain date and 1 July was the most appropriate date. The time that it took to draft the legislation to get it to a point at which it could be brought into this place did not leave sufficient time to ensure that it would pass this Parliament.

The Opposition's record of mischief with good law is extraordinary. It quarantined the Weapons Bill for nine months in the other place. Goodness only knows what would have happened to the fire service levy legislation even if it had passed through this place on a guillotine. It would have disappeared into the other place and been sent off to a committee because the Opposition wants to wreak mischief on any form of good government. It is absurd for the Opposition to suggest that there is any authoritarianism in government in the way in which the fire service levy is being dealt with; indeed, entirely to the contrary. As soon as it was apparent to me that it was unlikely to pass by 30 June, I publicly said so with a three minute

statement in this place and local authorities have been told that ratepayers' funds have not been wasted. The local authorities that have revamped their computer systems have been paid for that to be done. There have been negotiations with WAMA that has agreed to a payment of \$100 000. I table a document which was given to the Opposition this morning when it met the WAMA officials.

The paper was tabled. [See paper No 1053.]

Mr PRINCE: I know that members of the Opposition met with WAMA officials this morning as I saw them.

Mr McGowan: You had your spies out?

Mr PRINCE: No, I did not. I saw them. I know that they have given the Opposition a sheet of paper. There is nothing wrong with that.

Mr McGowan: Were you hiding behind a palm tree?

Mr PRINCE: Palm trees? Get off it! If either smoking or growing palm trees becomes popular from a recreational point of view, one can bet one's life that the health industry will come along and stop it.

Dr Gallop: That's pretty good coming from the former Minister for Health!

Mr PRINCE: Get off it! In a farce of a debate like this, with the MPI raised by the Opposition, it expects people to be serious? Come on!

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr PRINCE: Thank you, Mr Deputy Speaker. In this place if there are ever practitioners of a concept of authoritarian rule, born to rule, elected to rule, whatever the case may be, it is the Opposition. The Opposition has no concept of democracy in a sophisticated, first world community, which is what Western Australia is and by and large what Australia is. The Opposition has such a simplistic view of the way in which things should be done, it is no wonder it got itself into such monstrous trouble during that 10 long years that it was in government. Notwithstanding all of the advice from many very good people who knew what they were doing, like Sir Francis Burt and others, the Opposition is still stuck in that mind set. It grieves me greatly that a person as young as the member for Rockingham is stuck in that culture because he has the capacity to think more broadly. His leader certainly does and some of the other members on his side do - the member for Eyre is one of them - but he should not listen to some of the others who will tell him, "Once you are elected, that's it, you've got the power to rule and it's authority." It is not, it should not be and it should never be. What was done with the fire service levy was not an exercise in any form of authoritarianism or incompetence; it was an exercise in the workings of democracy which the Opposition obviously will not understand.

Having demolished the member for Rockingham on that matter, I will now leave him to be chewed up by the Minister for Local Government who has a longer track record in honesty and integrity in local government than the member for Rockingham ever will.

**MR OMODEI** (Warren-Blackwood - Minister for Local Government) [3.18 pm]: I have always regarded myself as the Minister for Local Government rather than the minister against local government. I note with interest the fairly lifeless effort that the Australian Labor Party has made in supporting local government during the years. If ever there was an unpopular previous Minister for Local Government, it was David Smith who imposed his will on local government. However, we are in this place today to discuss a number of things.

The Local Government Act refers to local governments having a degree of autonomy in their actions. However, under section 3.1(1) of the Local Government Act, a local government's actions must be for the good government of persons in its district.

Dr Gallop: Yes, but that is not for you to determine; it is for the people in that area to determine. We have just proved the argument that we are putting up.

Mr OMODEI: Why does the Leader of the Opposition not shut up and let me have my say?

If a council formally introduces a boycott policy, it is questionable in law whether that would be for the good government of the people of the district. The company would generally be boycotted for activities occurring elsewhere which have no direct relevance to the local government making the decision. Therefore, council's autonomy to make the policy is questionable and the policy legitimacy is debatable.

Dr Gallop: What are you reading from?

Mr OMODEI: That is a quote that I just made about local governments.

Mr McGowan: Is that a legal opinion?

Mr OMODEI: No, it is not a legal opinion.

Mr McGowan: Did that come out of your head?

Mr OMODEI: Maybe I should repeat it so that the member for Rockingham can listen to it very carefully. This is my view that has been given to me by my department -

If a council formally introduces a boycott policy, it is questionable whether that would be for the good government of the people of the district. The company would generally be boycotted for activities occurring elsewhere which have no direct relevance to the local government making the decision. Therefore, council's autonomy to make the policy is questionable and the policy legitimacy is debatable.

Mr McGowan: I call on the minister to table that paper.

The paper was tabled. [See paper No 1054.]

Mr OMODEI: We are talking about a number of local governments that I believe have made a political decision to black-ban companies. I ask the Leader of the Opposition whether the Labor Party supports local government black-banning businesses.

Dr Gallop: It is up to the local government to determine that.

Mr OMODEI: So the Labor Party does. To take that to its logical conclusion, we will see after some state election the Labor Party black-banning companies in Western Australia because it did not like what they were doing. That is how nonsensical this issue is. Nedlands City Council last night reaffirmed its decision on black-banning companies involved in woodchipping.

Mr Thomas: Councillors are democratically elected.

Mr OMODEI: The member can say that and is entitled to say it.

Mr Thomas: It is true. They are elected by ratepayers.

The DEPUTY SPEAKER: Order!

Mr OMODEI: Let me tell the member what the ratepayers did in the last election. They elected to their council on a 60 per cent vote a mayor who is a director of Wesfarmers Ltd.

Dr Gallop: So what? Good luck!

Mr OMODEI: Would it not then follow that the council would review its decision on Wesfarmers? Would that not make sense? It is up to the local government. I ask the member for Rockingham, what would happen tomorrow if the Shire of Manjimup decided to black-ban businesses in the City of Rockingham? It would be nonsensical, as is this decision. The company involved in woodchipping, Wesfarmers, also owns Kleenheat Gas Pty Ltd, Wesfarmers Federation Insurance Ltd, Wesfarmers Transport Ltd, CSBP, Bunnings Building Supplies Pty Ltd, Bunnings Forest Products Pty Ltd and WA Chip and Pulp Company Pty Ltd. It supplies sawdust to Soils ain't Soils and to Simplot Australia Pty Ltd for the potato chip processing factory. What is the next thing? Will the council now black-ban Kentucky fried chips? That is how ridiculous this argument is. It is wrong in principle, whether it is Wesfarmers, Joe Bloggs Transport or whatever. Where does one stop on this issue?

Dr Gallop: It is for those people to determine.

Mr OMODEI: It is all right for the Leader of the Opposition to introduce a Bill to stop the Town of Cottesloe having paid parking at Cottesloe beach. Is that democratic? The truth of the matter is that I supported it because I passed the regulation to give effect to that. I am the Minister for Local Government. The Local Government Act gives me power to introduce legislation to do these things. If local government is to boycott local businesses, it should be made difficult for it to do that. I will be reviewing and watching very closely what it does. Local government in the States is a child of the States. It exists because of state statutes.

Several members interjected.

The DEPUTY SPEAKER: Order!

Mr OMODEI: It is the right of the minister concerned to make directions to local government from time to time, as the Minister for the Arts, the Minister for Planning, the Minister for the Environment, the Minister for Health, the Minister for Lands and a whole number of other ministers who have an impact on local government operations in Western Australia. This matter of public importance motion is almost unbelievable. I have been involved with a whole range of issues over my time. We introduced legislation to break up the City of Perth. I challenge the opposition spokesman on local government to go out to all of those local governments and ask them if they want the decision reversed.

Mr McGowan: I was not even here.

Mr OMODEI: I thought the member was. It is not that long ago. The member might say that it was an undemocratic decision, but it was a decision by this Parliament to split the City of Perth. Although there was disagreement with the decision in the early stages, the member should ask the ratepayers if they want to go back to the old City of Perth.

Dr Gallop: Does this sheet of paper contain a legal opinion?

Mr OMODEI: No, it is not a legal opinion.

Dr Gallop: Who provided it to you?

Mr OMODEI: The member asked me to table a paper, so I tabled it.

Dr Gallop: You wrote it.

Mr OMODEI: It is an excerpt of a statement the Department of Local Government gave to me.

Dr Gallop: Is it a legal opinion?

Mr OMODEI: I have not received crown advice on this matter, but when I do decide to make a decision after these local governments have reviewed their decision on boycotting private businesses, I may seek legal advice on the matter.

We did not have an MPI motion on the timber debate, but I want to refer to a couple of issues on woodchipping. Woodchipping is a byproduct of the timber industry. I presume that even under a Labor Government the timber industry could cut down some trees. If the Labor Party were in government, the economy of the south west would be absolutely devastated. If someone cut down a 150 year old prime karri tree that was a metre in diameter, he would get about 45-odd per cent select grade timber, 15 per cent sawdust and the rest as waste. In 1975 the Labor Party signed the woodchip agreement.

Dr Gallop: We were not in power then.

Mr OMODEI: It was in 1974 then. The Labor Party negotiated the woodchip agreement. Does the Leader of the Opposition disagree with that?

Dr Gallop: I am not sure.

Mr OMODEI: The Leader of the Opposition is not sure! He does not know that! He is an expert on the forest debate and he does not know when the woodchip agreement was signed.

Dr Gallop: I will tell you what I do know. Our policy will be taken right through the next state election.

Mr OMODEI: Talking about policy, if I may refer to the Labor Party policy at the conference before the last one it had, because the last one was in such disarray that obviously the party cannot have annual conferences, four years ago it had a woodchipping and conservation policy. It was called Woodchipping and Conservation in our Old-growth Forests. Under the 1994 woodchip licence process it reads -

The Federal Government has little power to control forest management in Western Australia - it being overwhelmingly State responsibility. Exports of woodchips are subject to licensing by the Federal Government pursuant to its powers under the Federal Constitution and as stated previously, the AHC has input where areas of the national estate may be affected. The annual process of issuing export woodchip renewal licenses has become unwieldy. State Labor will work with the Federal Government to develop a system of five year licences which will give greater security to both forests and industry.

Mr McGowan: You are in a time warp. This is 1999.

Mr OMODEI: This is the Labor Party's current policy. I will read out the name of the author in a minute. It continues -

As part of the woodchip export licence assessment process, the WA Conservation Council submitted to the Federal Government a list of -

Listen to this -

- 29 forest blocks (61 coupes) which it considered had high conservation value and therefore should not be used for logging and woodchipping.

These blocks were all scheduled for logging -

This is under the Labor Party in its last management plan -

- in 1995-97 and the Conservation Council sought their protection; they included:

I will read out the names of the blocks.

The DEPUTY SPEAKER: I remind the minister that we are not dealing with forestry. We are dealing with local government and the fire levy.

Several members interjected.

The DEPUTY SPEAKER: I am trying to get the minister back onto the subject.

Mr OMODEI: I beg your indulgence, Mr Deputy Speaker. We are talking about local government. The member opposite talked about local governments black-banning local companies involved in woodchipping, which is what local governments are doing. The blocks mentioned were Hawke, Peak, Sharpe, Jane, Rocky, Kingston, Giblett, Ordinance, Dawson, Lockhart, Crowea and Murton in the southern forest region, and Hester, Kerr, Preston, Blackpoint, Cambray, Gayndah, Telerah, Bottlebrush, St John and Rosa in the central forest region. If the member can mention any of the icon blocks the Labor Party wants protected apart from those, I would like to hear about them.

The document continues -

When the Federal Resources Minister announced the areas which would be logged for woodchips he indicated that only five coupes in two of the blocks were worthy of protection from logging activities.

This Labor Party policy goes on to state that woodchipping is an important aspect of silvicultural practices used in the management of our native forests as well as an important byproduct of sawmilling of the native timber.

I find it passing strange that members opposite come into this Parliament and support local governments that are black-banning companies going about their legitimate business.

Dr Gallop: Have you talked about old-growth forests?

Mr OMODEI: This paper refers to woodchipping and conservation in old-growth forests.

Dr Gallop: That is what the councils are concerned about.

Mr OMODEI: I have just been told by the Deputy Speaker that I cannot refer to old-growth forests. I am talking about woodchipping, which is the subject of the motion.

Several members interjected.

Mr OMODEI: The member for Rockingham raised the issue of financial assistance grants. I supported GST growth funds coming to the State for local government funding because that involved significant growth funds. As local government is a state responsibility, State Governments would be better able to fund local government activities. I did not sign the "magic agreement" that the Western Australian Municipal Association wanted me to sign because at that stage we had no idea what revenue would come to the State from the GST. That has been borne out by the fact that the state of play has changed since the Australian Democrats have been involved and the revenues have reduced. At the same time, the Federal Government has resumed responsibility for financial grants funding for local government.

Last Friday in Adelaide I attended a meeting of Ministers for Local Government from around Australia. I moved a motion that financial assistance grants funding to local government be tied to commonwealth revenues. That motion met with some agreement and was passed. When the member accuses me of not supporting local government -

Mr McGowan: You did not support it when you had control.

Mr OMODEI: I did.

Mr McGowan: Did you support a percentage share?

Mr OMODEI: We have never discussed a percentage share. If we had supported a percentage share under the first GST arrangement at 6 per cent, which is what Queensland did, when the Democrats' deal came through it would have been 10 per cent or more. It is nonsense to ask for a decision from members when the Western Australian Municipal Association has been advised by Treasury that it was not possible to make a commitment until we had a final analysis of what would happen.

If the member were an avid opposition spokesperson for local government he would know by now that I led the charge in Adelaide to tie financial assistance grants to federal government revenue. When federal government revenues decrease, funds to local government decrease. Apart from one year, when the Federal Government retained \$1m in per capita increases, local government throughout this country has always enjoyed real per capita increases. The funds have not been tied to federal government revenues. That would have been good for local government because those revenues have been going up; in fact, I have not seen the curve dip in the past decade. Local government has had significant growth funds under financial assistance grants in real terms for as long as I can remember. Even with the current GST package there will be significant benefits for local government in savings, particularly in diesel and input costs for their business units.

The member should not tell me what I should be doing about local government. I have been involved in local government in excess of 20 years. I have been a great supporter of local government. For the member to come into this House with a namby-pamby matter of public importance is absurd. If it were a matter of public importance, we would tell the public that Western Australia has led the States in moves to have financial assistance grants tied to federal government revenue.

**MRS ROBERTS** (Midland) [3.38 pm]: What we have seen this afternoon is a very pathetic defence by two ministers who both have egg all over their faces. The Minister for Emergency Services has stuffed up with his fire and emergency services levy. I do not say that simply because he pre-empted his colleagues, or because he did not have his legislation ready, but because he pre-empted the Parliament of Western Australia. He made the assumption that this Parliament would agree before 1 July to what he had in his Bill, which he developed behind closed doors.

The Labor Party has been calling on the minister to introduce the legislation for some time. He put the cart before the horse: He made an announcement and commitments to the Western Australian Municipal Association, local government, the insurance industry, the Insurance Council of Australia and others that certain events would take place on 1 July. He expended money and he caused local government to expend money on that basis. He took the support of Parliament for granted. He assumed he would get his legislation through on the numbers and that it would be rubber stamped in the upper House. That is the incompetence that we have come to expect from the Minister for Emergency Services. He made undertakings to local government, WAMA, the insurance industry and others on the basis that something would happen on 1 July. He spent money, the Government spent money and those groups spent money on that basis.

The competent way to do this would have been to introduce the legislation - as he should have done last year when he announced it - and then, with the approval of Parliament and the support of the democratically elected members of this State, he could have spent his money and advised local government, the insurance industry and others that they could commence their expenditure programs. This is a stuff up by this minister.

The Minister for Local Government also has egg on his face. He has let his personal view on the forest debate lead him to threaten local government autonomy in Western Australia. He has threatened local government's ability to represent ratepayers. He has made some silly comments and I gather from his comments today that he is contemplating backing off because he knows that what he did and what he is suggesting is very high-handed and completely out of place.

One of the interjections from the Minister for Local Government during the member for Rockingham's contribution was that he did not support politically motivated local government. He has also tabled a document about a boycott policy. He does not want local governments making political decisions with which he disagrees. I have news for him: Democratically elected local government bodies are autonomous and responsive to their ratepayers. In fact, they are much more responsive to their constituents than members opposite. They get involved in issues which are regarded by many in the community to be important but which are also political.

Some councils in this State have expressed a view with which the minister does not agree. He does not agree with boycotting companies that are woodchipping native forests.

Several members interjected.

Mr Bloffwitch: It is called secondary boycotting and it is illegal.

Dr Gallop: That is interesting.

The ACTING SPEAKER (Mr Osborne): Order, members!

Dr Gallop: We look forward to your contribution.

The ACTING SPEAKER: I call the Leader of the Opposition and the member for Geraldton to order.

Mrs ROBERTS: What is important is whether their ratepayers support it. If their ratepayers do not support it, they will vote them out at the next election. That is what democracy is all about. Let us look at some of the other issues on which local governments have legitimately taken a stance, such as their recycling policies or their preference for recycled paper products or for cleaning products that are greener. Many local governments have made what a number of people would regard as political statements on the preservation of heritage and trees and the retention of public open space. They have made statements about the banking industry. They have made policies about nuclear-free zones, which have been ridiculed by some. Some people have asked how we can have a nuclear-free zone when we have no control over the roads or things that are happening in hospitals. These policies are made on behalf of their constituents and they proceed on that basis. Some local governments may make purchasing policies with a preference for Western Australian-made goods, Western Australian-provided services or Australian-made goods. They are entitled to do that on behalf of their ratepayers. Many of their ratepayers not only want them to have permission to do it, but also expect them to indicate those preferences.

Mr Prince: What you are advocating is breaching the law.

Dr Gallop: Rubbish! It is not breaching the law.

Mr Bloffwitch: It is.

Dr Gallop: If it is breaching the law, you do not understand democracy.

The ACTING SPEAKER: Order! The member's time has expired. Before I give the call to the next speaker, I call for order from the member for Geraldton and the Leader of the Opposition because they are not engaging in the debate. They are engaging in an across-Chamber slanging match, and I will not have it in this Chamber.

**MR BLOFFWITCH** (Geraldton) [3.42 pm]: I hope the Leader of the Opposition remembers that point while I am on my feet. When the Fire Brigades (Fire Service Levy) Bill came to the party room, I did not support it. The reason I did not support it is that I live in the suburb of Greenough in Geraldton and I am looked after by a bush fire brigade. I am not looked after by the Geraldton fire station.

Mrs van de Klashorst: The volunteers.

Mr BLOFFWITCH: There are three types of services: The volunteers; the emergency services, which are in the country; and the regional services, which are run by the shires and which look after my area. Under this funding arrangement, no consideration was given to them.

Mr Prince: There are career firefighters, the volunteer fire and rescue services and the bush fire brigades, which are made up of volunteers.

Mr BLOFFWITCH: The bush fire brigade is the one that is in the hinterland.

Dr Gallop: This sounds like a Caucus meeting.

Mr BLOFFWITCH: The most underfunded of all the fire brigades would probably be the voluntary brigades of these services. They raise money to replace their equipment through either their councils, the volunteers or business. That is an unfair burden when they are protecting insurance companies by putting out fires and trying to save property from damage. If we want to do something in this State to increase these levies - I say we should - a levy should be placed on every house in Western Australia, not just in the metropolitan area and in Geraldton. All houses must contribute to this, because those brigades will be expected to put out the fires in these areas. This is what democracy is all about. We asked our minister to redraft it and rethink it, which he agreed to do. That is a tremendous example of democracy working well. That is an

example of how this system and a party system should work. In this case, it has been first class. Consequently, I cannot support the Opposition's motion which says that what the minister has done is incorrect.

Dr Gallop: Incompetent was the word.

Mr BLOFFWITCH: It is totally competent and totally right. If we can get this formula and the funding right, everyone in Western Australia will be better served by their fire brigades. Certainly we will pay our way, which we do not do under the insurance system. None of the multinationals insures in Australia, and companies like Shell Australia Limited do not have any insurance; it covers its own insurance. In covering it, it does not pay one red cent towards fires. We spend mega bucks on putting out the fires at service stations and can members guess how much money we get? Absolutely nothing.

Question put and a division taken with the following result -

Ayes (18)

Ms Anwyl	Mr Graham	Mr McGinty	Mrs Roberts
Mr Brown	Mr Grill	Mr McGowan	Mr Thomas
Mr Carpenter	Mr Kobelke	Ms McHale	Ms Warnock
Dr Edwards	Ms MacTiernan	Mr Ripper	Mr Cunningham ( <i>Teller</i> )
Dr Gallop	Mr Marlborough		

Noes (30)

Mr Ainsworth	Mrs Edwardes	Mr McNee	Mr Sweetman
Mr Baker	Dr Hames	Mr Nicholls	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr Omodei	Mr Tubby
Mr Bradshaw	Mrs Holmes	Mrs Parker	Dr Turnbull
Dr Constable	Mr Kierath	Mr Pental	Mrs van de Klashorst
Mr Court	Mr MacLean	Mr Prince	Mr Wiese
Mr Cowan	Mr Marshall	Mr Shave	Mr Osborne ( <i>Teller</i> )
Mr Day	Mr Masters		

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Pairs

Mr Riebeling	Mr Board
Mr Bridge	Mr House

Question thus negatived.

**RAIL FREIGHT SYSTEM BILL 1999**

*Committee*

Resumed from an earlier stage. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

**Clause 34: Designating government railway land as corridor land or land other than corridor land -**

Progress was reported after the member for Armadale had moved the following amendments -

Page 18, line 20 - To delete "The" and substitute "Subject to sub-clause (2), the".

Page 18, after line 22 - To insert the following -

(2) This clause does not apply to the following standard gauge lines -

Kalgoorlie - Kwinana  
Leonora - Kalgoorlie  
Kalgoorlie - Esperance.

Ms MacTIERNAN: Shortly before progress was reported in this debate the Deputy Premier kindly provided me with a copy of an Organisation for Economic Cooperation and Development policy document.

Mr Cowan: You have the executive summary. If you want to be punished we will give you the full bit.

Ms MacTIERNAN: No doubt we will be ready for the full bit. This document reinforces much of what we were saying. I will now enlighten the Deputy Premier how that is so. The Opposition's fundamental argument is that intra-modal competition is almost impossible when there is virtual integration. The Government's answer is that we can have rail access regimes. We have read into the *Hansard* submissions from rail track operators and from above-line rail operations, users, all disputing that claim. Now the OECD is pointing out a number of problems with access regimes. It says -

In the case when the entrant is providing a service which partially duplicates a service provided by the incumbent -

An example would be if Wisconsin Central got control of our railway lines and National Railway wanted to compete with Wisconsin Central. It continues -

- the incumbent has strong incentives to charge an access price sufficiently large to exclude the entrant. We know from the growing economic literature in this field that, in this case, the access price should not be greater than the retail price. . .

Even where the pricing formula is agreed, it may be difficult to obtain the necessary information about incremental costs and joint costs from the incumbent, especially as such information is not available in the companies accounts, and the incumbent has strong incentives to misrepresent the results.

That is also exactly what the Opposition is saying. There are many ways of transferring pricing and for a rail track manager, who is also an above-line operator, to frustrate even a well-established pricing formula under a rail access regime. The OECD is clearly picking up the same points we made earlier. It goes on to say -

Even where the pricing formula is agreed, the incumbent will typically find it in his or her interests to use every means at his or her disposal to obstruct the development of competition, including delays in negotiation and litigation. In order to reduce the opportunities for ex post opportunism, the contractual arrangements between firms will, of necessity, need to specify in detail the terms and conditions under which access is provided . . . Disputes are virtually inevitable both *ex ante* (before the contract is signed) and *ex post*? These disputes may be protracted and costly.

It continues -

Inevitably, there are economies of scope in the joint operation of rail infrastructure and train services. The introduction of an access regime will inevitably result in the partial loss of these economies of scope.

I would like the Deputy Premier to address this. The Opposition does not believe the access regime will work. Even under the terms of its access regime before the National Competition Council at present, the Government requires ring fencing of the two parts of the operation. There is required to be placed around the track-management line, a complete segregation - a Chinese wall - from that which we find in the above-line operation. This document is saying that in itself will destroy the very advantages of vertical integration. It is a nonsense to talk about vertical integration and competition on the tracks. It is not possible to operate both effectively; one will destroy the other.

Ms Anwyl: Hear, hear!

Mr COWAN: I remind the member for Armadale that commercial agreements in effect allow third parties to use the east-west standard gauge line. They seem to work very well. That is the only way in which the third parties will be entitled to use or have access to the track; that is, through a straight commercial agreement. With the third party access regime, most likely third party users will have access without any fear of discrimination. They will be able to utilise that track in a way similar to that which was brought about through the existing commercial agreements, but they will have greater strength.

Ms MacTiernan: This document points out the ways in which it is impossible to stop an above-line operator that manages the track from undermining an access regime. That is what that is all about. How do these access regimes stop them? Does not the existence of an access regime, which under the terms of your regime require that the two parts of the operation be completely separated, undermine the economies of scale that are the basis of your argument for supporting vertical integration?

Mr COWAN: I do not see it that way. I am sure that a regime or code will be established that will clearly set out those rules. Should there be a violation of the third party access regime, or the code, whichever way it is addressed, the corridor responsible minister will have the capacity to deal with that issue. Ultimately, the operator will do as much as it possibly can to attract a greater volume of freight over that line.

Ms MacTiernan: It will not do that for a product it is in competition with, only for freight it is not carrying. That is why Anaconda Nickel Ltd says it does not want this.

Mr COWAN: That is not true. Anaconda is not saying that it does not want this. If the member for Armadale makes assertions to the contrary, I suggest she have another discussion with Anaconda, because that is not the case and those issues have been addressed. Anaconda, together with those four other companies that are part of the integrated supply chain have addressed those issues. The report of the Organisation for Economic Cooperation and Development report concluded that in an area in which low volume freight is carried by rail, the optimum method is a vertically integrated system and a third party access regime that can be rigorously enforced. That is the view of the Government, and the Opposition disputes that. It is also interesting to note that the OECD did not put any emphasis on volume. It did not speak about it. It said that in certain areas a vertically integrated system would maximise the value of the use of rail. The Opposition disputes that but the Government accepts it and is not likely to change its view.

Ms MacTIERNAN: Although it is true that the OECD has not focused on volume, it is because it has been approaching it from the point of view of whether there will be inter-modal or intra-modal competition. The Productivity Commission makes that point, which the Deputy Premier does not appear to understand. It is interesting that the member for Collie understood it and was frank in saying that the Government was not looking to have competition on the rail network, it was happy to have competition with road. Of course, our resource users do not have competition with road. It is a nonsense to talk about moving the product from the mining companies by road; that is not an option. The OECD reports talks about vertical integration when there is significant inter-modal competition. The argument of the OECD, which the Opposition has accepted all along, is that at one level, vertical integration is more efficient and enables economies of scale. However, adopting vertical integration precludes competition. Vertical integration should be adopted only where there is substantial and significant inter-modal competition - that is, competition with road. Resource users do not have the option to cart iron ore by road from Koolyanobbing, or does the minister think that is an option?

Mr Cowan: It never was. Please be reasonable and sensible.

Ms MacTIERNAN: I am.

Mr Cowan: You are not. No-one will suggest that bulk minerals should be transported by road.

Ms MacTIERNAN: That is precisely my point: There is no inter-modal competition on those lines. Inter-modal competition is not even a possibility, for the very reasons given by the Deputy Premier.

Mr Cowan: No-one would want that.

Ms MacTIERNAN: I know that. We must go over some basic economics for the Deputy Premier. We have two systems, inter-modal and intra-modal: Inter-modal is where one mode competes with another - that is, road versus rail. The OECD argument is that where there is significant inter-modal competition, we do not have to worry too much about competition on rail because the competition will come between road and rail. That is the policy that was adopted in New Zealand and the non-interstate line in Victoria; that is, the competition would be with road. That is probably the appropriate model for our grain freight in the wheatbelt. However, for a number of products - iron ore and bauxite - as the Deputy Premier has acknowledged, it is not realistic to consider moving that freight by road. Therefore, we do not have inter-modal competition. The only way we can have competition is on the rail system. We have intra-modal competition. If we want intra-modal competition, we do not want vertical integration. The reasons for that are set out in the OECD report and include problems with access regimes. They have been enunciated time and again. This document points out that we will not even get the information in order to establish there has been a breach. It is as difficult as that. I do not know from where the Deputy Premier's advisers have got the idea that these access regimes work. They do not work in the United States and they certainly will not work here.

Mr COWAN: I will try once more with a slightly different approach to make the point to the member for Armadale. I am confident that the access regime that will be established in Western Australia will produce sufficient information to determine whether there is fair competition in respect of what is offered to a third party.

Ms MacTiernan: Did the OECD get it wrong?

Mr COWAN: The member's interpretation of what is in the OECD report is wrong. Rather than have a subjective debate about that, I will put it to the member from another position: If we look at the traffic that Westrail wins in bulk freight, she will notice that most of those companies are very large. They could probably buy their own freight service if they wanted to. They have the capacity to negotiate a very tough agreement. Bearing in mind that seven or eight major contracts make up 75 per cent of current Westrail traffic, and that those contracts are with companies like Alcoa of Australia Ltd, Worsley Alumina Pty Ltd, the Australian Wheat Board, and the mineral sands companies which are big companies in their own right, one would have thought they would have the competence to negotiate a deal that is competitive, particularly when we have a rigorous third party access regime in place. I have tried to make that as clear as I possibly can. With all of that in place, I am satisfied that this amendment is not necessary.

Ms MacTIERNAN: This rigorous rail access regime that the Deputy Premier is so confident about has been subject to all of these criticisms. These are submissions that have been made by a whole raft of players in the rail access regime. As I pointed out before, this access regime has not been ticked off even with the Government as an owner. It has not had the big tick from the National Competition Council. Secondly, even if it is approved and even if it is, as the minister claims, as good as rail access agreements get, do rail access agreements work? The evidence from around the world is that they do not work.

Mr Thomas: The evidence from around Western Australia.

Ms MacTIERNAN: Certainly. The minister could have drawn up the best possible rail access agreement but he has not. However, even if he had, there are inherent problems in it. People who run railway companies, including the Australian Rail Track Corporation, say that as rail track managers they know ways in which they can derail the opposition. Has the minister spoken to Mr Purcell? This is not the Australian Labor Party making this up; this is what people who run railways say, like the people from The Toll Group who have a vested interest in knowing how these schemes work. They are not interested in being below-line operators; they just want to run their trains across lines.

Mr Cowan: And they do.

Ms MacTIERNAN: And they do. They are telling the minister that a below-line operator has 1 001 ways. Has the minister's advisers spoken to them?

Mr Cowan: They have.

Ms MacTIERNAN: And I suppose the minister's advisers will say that they are all happy with this arrangement. Is that correct?

Mr Cowan: Firstly, you have to distinguish between a submission and an objection. The file that you waved around would probably contain submissions.

Ms MacTIERNAN: That is right; submissions that are highly critical of the scheme.

Mr Cowan: There were some criticisms; however, they were submissions. In every case in which there was an objection, the objection was probably underlining the mechanism by which those companies who wanted to be third party users thought they might be able to either gain an advantage or had some fear that they might be disadvantaged. We will eliminate the fear but we will not give them an advantage.

Ms MacTIERNAN: The minister cannot eliminate the fear because it is inherent in the nature of the structure. There is no

question of interpretation here. There is much debate about the pricing formula, whether there should be a ban or a flag fall. Putting that to one side, the OECD refers to the difficulty in determining where the costs come from and how much of these costs that are claimed are above line and how much are below line. It uses the same language used by the private sector operators and the users. It says that the incumbent will typically find it in his or her interests to use every means at his or her disposal to obstruct the development of competition, including delays in negotiation and litigation. The minister can say that it is a question of interpretation, but those words are pretty obvious; that is, these rail access regimes are limited in their capacity.

I return to the other point that the minister has not answered, even though we have raised it time and again; that is, he tells us that the advantages of vertical integration arise out of the economies of scale and the benefits of integration. However, a rail access regime, by its very nature, demands disaggregation of those parts of the company. One cannot therefore achieve the benefits of vertical integration if a proper third party access regime is established because that disaggregates the two parts of the operation. Can the minister explain that contradiction?

Mr COWAN: I do not have to because I do not agree with the member. I remind members that we are dealing with an amendment which seeks to remove the east-west standard gauge line and the Kalgoorlie-Esperance and the Kalgoorlie-Leonora lines from this proposal so that any operator would not be able to obtain a lease over the east-west, Kalgoorlie-Esperance or Kalgoorlie-Leonora lines. The Government opposes that amendment.

Ms ANWYL: The Opposition has moved this amendment out of desperation. There is certainly desperation for the minister to provide a clear indication of the method by which the Government will assure the upkeep and the upgrade of the infrastructure on the Leonora-Esperance line. The minister stated clearly during the Estimates Committee when I raised this issue that he expects the sale of the business to include a clear indication of the method by which that infrastructure will be upgraded and maintained by injection of capital.

Mr Cowan: I tell you what, if you vote for this amendment it won't do that.

Ms ANWYL: The minister made it clear -

Mr Cowan: Let me make it clear again: If you vote for this amendment that is not likely to happen.

Ms ANWYL: The amendment obviously will not pass this Chamber; let us be realistic.

Mr Cowan: You had better make up your mind. Do you want to support the amendment and deny yourself the opportunity to have access to all of that capital expenditure or don't you?

Ms ANWYL: I just said, and I will say it again, the Opposition has moved this amendment out of desperation at the lack of clarity from the minister's Government about the exact method by which he will protect this very important piece of infrastructure. I know that there are members of the minister's party on that side of the Chamber who wish to protect this infrastructure and I know that when this Bill goes to an inquiry before the upper House, as it inevitably will, it will be an important issue.

Mr Cowan: This amendment does not protect it; it isolates it.

Ms ANWYL: There is no protection in the minister's legislation to prevent it from being shut down altogether. Let us be real! There is absolutely no protection and there has been no guarantee from the minister's Government about the method by which he will protect this piece of infrastructure. Everybody agrees that \$35m must be spent. The minister has talked in this debate in the past week about there being a condition in the lease agreement that the purchaser and the lessee will have to maintain the infrastructure. Have I misrepresented the minister?

Mr Cowan: No, you have got it right. The maintenance of the line must be carried out to ensure it is fit for that purpose. That is correct.

Ms ANWYL: That refers to the lease agreement?

Mr Cowan: Yes.

Ms ANWYL: Is the minister suggesting that one of the conditions of the sale agreement may be the upgrade of the line?

Mr Cowan: That will not be in the sale agreement but -

Ms ANWYL: Where will it be?

Mr Cowan: Can I just finish the answer?

Hon Bob Thomas: They are praying for it.

Mr Cowan: We are all praying for many things but we are not exactly praying for this. I make the point to the member for Kalgoorlie that the value of the line - we debated this in the second reading debate - is not just about a sale to maximise the price. It is about a sale which gets the best possible advantage for the State. If the best possible advantage for the State is that if there is any money surplus to retiring the debt associated with the rail freight business - and I am not saying there will be, but I am hoping there will be - the State must make a decision about where it will allocate those funds or what it will do with them. I would be disappointed if any surplus funds associated with the sale of this freight business are not ploughed back into improving the quality of the track in different places. I have acknowledged that the Esperance-Kalgoorlie and the Kalgoorlie-Leonora branch lines will have a degree of priority in that option should there be a surplus.

Ms MacTiernan: There will not be a surplus.

Ms ANWYL: Let us not get into that debate as we have had that debate, as the minister pointed out.

Mr Cowan: We certainly have.

Ms ANWYL: I can tell the minister that the Australian Labor Party is not happy with the answers in that debate. However, I am asking the minister now where in this legislation there is any assurance that there will be the requisite direction from Government on particular priorities? To date there has been a great deal of ducking and weaving but not one single guarantee of how particular priorities will be extracted from the purchaser.

Mr Cowan: There are no guarantees in the Westrail Act.

Mr GRILL: I have concerns similar to those expressed by the member for Kalgoorlie about this particular track. It has been suggested that there should be a conference relating to this track, possibly held in Kalgoorlie. I have had discussions with the member whose electorate contains Esperance about a conference, possibly at Esperance, at which the users, the Federal and State Governments and all of the other parties can sit down and thrash something out.

Mr Cowan: Which track are you talking about; the north-south or the east-west track?

Mr GRILL: The north-south track with greater emphasis on the Kalgoorlie to Esperance portion of the line because that is the line which seems to be under the most threat. We believe that there should be a conference. We would be happy with the chambers of commerce of Kalgoorlie and Esperance jointly holding such a conference. We would encourage people to take part, as we would hope the Government would encourage them. Of course, the Government must play an important role at a conference like it. I have discussed it with officers of the minister's development commission and they are enthusiastic about holding a conference, although they do not want to sponsor it because they do not want a conflict of interest to arise. People want to see a conference take place for the very reasons expressed by the member for Kalgoorlie. The minister might be disappointed at the end of the day if the track is not upgraded but where does it get us? The minister was disappointed a year or two ago when he was not able to fulfil his promise on the gold royalty. What did it come down to at the end of the day? The minister's disappointment - that is all.

Mr Cowan: My level of disappointment just about matched your level of disappointment when the Federal Government introduced legislation to remove taxation exemption from the gold industry.

Mr GRILL: The minister is right, but I did not make promises about it; I was not in the business of making promises about it.

Mr Cowan: As I understand it, you were right in the middle of your speech when your mobile phone went off and spoiled your argument.

Mr GRILL: We held the line for about six years, which at least was something for the industry. There is real concern about this track. It runs through the electorate of a very close colleague of the minister's. We are talking about the stranding of an asset, which is the port of Esperance on which the Government is spending a lot of money. If that track does not have some sort of guaranteed future, a large part of Esperance will die. People other than the Opposition are concerned about it. That is why we are moving this amendment. A letter to me from Portman Mining Limited reads -

Thank you for your letter to Geoff Wedlock dated 8 June 1999, and the accompanying information on the Westrail privatisation. Geoff has asked me to respond to you.

As you know we are actively studying the expansion of our Koolyanobbing operations incorporating port development at Esperance or Kwinana. As the Esperance option is heavily dependent on a long term cost efficient rail service, the future of the Esperance-Leonora track is of major importance to Portman.

We support your idea of a conference in Kalgoorlie involving the relevant Chambers of Commerce and other interested parties. Portman Mining would be an enthusiastic participant in this event. Please keep us advised of developments . . .

I have a similar letter from WMC Resources Ltd signed by Mr Griffiths. It reads -

Thank you for your letter 8 June 1999 and the information on the Rail Freight System Bill.

We have a keen interest in this matter and have participated in the debate and have been monitoring its progress. We have had a number of discussions with Murray Criddle to express our concerns with respect to aspects of the Bill. Your idea of a conference to examine the future of the Esperance Leonora track is a good one and one that we would be happy to participate in.

Mr Purcell of G13 Pty Ltd, representing a whole group of companies, wrote -

Thank you for your letter of 8 June 1999 and enclosures.

I agree that the legislation is some cause for concern in that it by no means assures the future of the Esperance Railway. I also agree that the proposed conference is best held as soon as possible.

Ms ANWYL: I would like to hear more from the member for Eyre.

Mr GRILL: It continues -

As you will be aware, the Esperance Port Authority is in favour of holding the conference. I am sure that the Integrated Supply Chain (ISC) users of the Goldfields Railways will join the EPA in this.

G13's work for the ISC has involved some sophisticated dynamic modeling of the logistics of the ISC's transport task. This model is the creation of InterDynamics Pty Ltd. It was mostly financed -

This will interest the minister -

- by the Goldfields Esperance Development Authority -

The minister's authority -

- which, I believe, is also supportive of the Conference initiative. G13 and InterDynamics would be willing to give a demonstration of this "ISC Model" to the conference.

Finally, I have discussed this matter with David Marchant, CEO of the Australian Rail Track Corporation Ltd. ARTC has a vested interest in the future of standard gauge track in Western Australia. ARTC would be happy to make a presentation to the Conference.

Please do not hesitate to let me know how we might be of further assistance.

Regards,

Mike Purcell  
Director

Another of the minister's colleagues at the federal level, the Deputy Prime Minister, has expressed concern over this railway. He has indicated that the Federal Government might be prepared to put \$35m into upgrading the track. I do not want to confuse sums of money, but there would appear to be money there if this matter is handled and structured in the right way. As it stands now, there is nothing in the legislation or, from what we have gleaned from the minister, anywhere else in writing, that would guarantee a situation which would ensure the future of this track.

Mr Cowan: Would you be prepared to acknowledge that nothing in the existing legislation does that either?

Mr GRILL: No, but once this track is placed in the hands of a private operator, people who have the ability to put pressure on the minister and me do not have any ability to control the level of maintenance on the track or a decision about whether a private operator would close it down. I related to the minister an instance that took place in my past when a Commissioner of Railways came to me and said that there was insufficient traffic on a particular track and that he was feeling people out to see whether to close it down. The minister might say that it is evidence of the fact that the Government might like to close it down. However, I was in a position to say, "You will close it down over my dead body." I have no doubt that others representing the same area made the same response. A private operator has allegiance to his shareholders who are interested in one thing only - the bottom line. The minister has responsibility for regional development. I do not see how a Government can simply hand over a rail business for 50 years to a private company and at the same time maintain that somehow the minister is discharging his regional development responsibilities. I told the minister the other day that I think his policies on this matter are running very badly against him. If this railway is handed over without guarantees, the minister might be doing me a favour in my electorate but I do not want to see him doing me that favour. Quite frankly, he will not get a vote.

Mr Cowan: I will take that risk.

Mr GRILL: The minister has taken risks before, much to his detriment in this region. I have held the Esperance seat and the one at the other end of the track for a very long time. Infrastructure projects of this sort are important to people in this area. If the minister implements this legislation without anything more than expression of disappointment, which is all we have to date, it will not do the minister much good electorally.

Mr COWAN: I remind members that this amendment seeks to prevent the lease of the east-west line from Perth to Kalgoorlie, the Esperance-Kalgoorlie line and the Kalgoorlie-Leonora line and leave them in isolation. They will be subject to the existing vagaries of finance from government.

I find it very interesting that the member for Eyre can talk about how we would be able to win money from the Commonwealth. He has been a Minister for Transport. How much money did he win from the Commonwealth for rail services? I am sure the answer is that he managed to get a bare minimum. His successors have been no more successful in winning funds from the Commonwealth to improve and upgrade rail services.

Ms MacTiernan: The Federal Labor Party committed \$50m for the lines west of Kalgoorlie at the last election.

Mr COWAN: Who did?

Ms MacTiernan: The Federal Labor Party promised \$50m.

Mr COWAN: I was talking about government commitments, not wishful thinking.

At the moment, under the current laws of this State there is no guarantee that capital will be won to improve and upgrade those lines, and, for that matter, any line. The decision and priorities given for expenditure on railway track are based on the economics of those issues associated with the amount of freight going up the line and the return to the owner - or in this case, the lessee. There is no legislative requirement allowing for that capital expenditure. There is no evidence -

Mr Grill: That program is already in place and it is being financed by this Government.

Mr COWAN: It is an undertaking that it will be done on the basis of maintenance of the traffic volume. That is very clear. There is no legislative mechanism enforcing the direction of capital into those services. These are economic decisions. There is no evidence that the Federal Government will provide funds for those lines, yet members opposite want to isolate those lines. They are proposing that they be removed from the current proposal involving a lease agreement that will deal with the requirement to provide maintenance to a certain standard.

Mr Grill: I suspect we are not alone.

Mr COWAN: That will allow the Government of the day, if it wishes, to invest in those lines. As I said during the second reading speech, if that is the Government's decision, so be it. The Government will invest and there will need to be some recognition of that in the lease because no lessee would expect to be better or worse off. If it is better off as a result of government expenditure, there would need to be some adjustment to the lease. The status quo - history proves this - is that Governments do not have great bundles of money to invest in railway track. They invest in track and maintenance based on commercial facts. The commercial decision determines that if the freight on that line is maintained - one would expect it to increase - there is every prospect that funds will be set aside. However, there is no evidence that the Federal Government will make money available. We have had plenty of promises, but there is no evidence that money has been made available in the past, and I do not expect that to change. However, if we maintain an opportunity for an operator to lease the east-west and the north-south lines, not only do they have the protection of the lease agreement, but they also have the capacity for the State to make a decision to invest on its own merit if the service is of regional importance. There are no guarantees in existing legislation. Therefore, we are not going backwards; we are at least maintaining the position and improving it.

Ms MacTIERNAN: It is clear that we will not reach agreement. I note in passing that the Deputy Premier was unable to provide any clarification of how we can simultaneously enjoy the advantages of vertical integration and a rail access regime, which by its very nature requires disaggregation of both sides of the business. That issue will be subject to more scrutiny during the upper House inquiry.

The Deputy Premier is correct: There is no guarantee under the existing regime if these lines were transferred to the Australian Rail and Track Corporation, which is keen to have them; nor is there any guarantee of what would happen if the lines were handed over to the private operator. It is true that there are no guarantees with the three alternatives that the Kalgoorlie-Esperance line will be upgraded and that the east-west line will be developed in conjunction with the interstate rail network. However, I would rather put my money on these lines being maintained on the ARTC system than on the performance of the private operator in this regard.

Members on this side have set out ad nauseam the scenarios that would see the Leonora-Esperance line under threat. I know we are not allowed to say that certain of these user companies have their concerns; we have been threatened -

Mr Cowan: By whom?

Ms MacTIERNAN: By the Deputy Premier. He said that we should not dare to say that. The letters quoted by the member for Eyre -

Mr Cowan: He was asking only for a conference. I welcome that; that would be a great idea.

Ms MacTIERNAN: The WMC Resources letter and Mr Purcell's letter both referred to their concerns, and those concerns are genuine. It is true that we cannot give guarantees that whichever of the three options is adopted that money will be spent to upgrade the lines. However, we must select an option that is most likely to give us a desirable outcome. As the member for Eyre pointed out, if we hand this over to a private operator, the overarching interest of that operator appropriately is the accretion of share value. A Federal Government and a State Government would have a very strong interest in not only the bottom line but also in regional development, and that has been demonstrated.

The Deputy Premier has said that no-one is spending money on these lines. We know that the federal Labor Government spent \$17m on the line between Leonora and Kalgoorlie to get Koolyanobbing Iron Ore Pty Ltd freight up and running.

Mr Cowan: It does not run that way.

Ms MacTIERNAN: It was between Kalgoorlie and Esperance.

Mr Cowan: Some work was done between Kalgoorlie and Esperance.

Mr Grill: They did redesign the track.

Ms MacTIERNAN: About \$17m was spent to attract one user. That user could have used Kwinana, but there were regional development considerations. It was important to provide an opportunity for the port of Esperance.

Mr Cowan: The State Government initiated that and it is not likely to change its position.

Ms MacTIERNAN: It may well have. We also understand that this Federal Government has promised \$250m for the interstate network, but we have yet to see it spent. Prior to the last election the federal Labor Party promised \$50m. Money can be devoted to the development of this rail infrastructure while it remains in public hands. We have read correspondence from Mark Vaile expressing concern about the possible privatisation because that would cut off opportunities for private investment. The Deputy Premier, using the fact that the Government does not have the money to invest to justify privatisation, is now saying that he will invest even once he has privatised. It is just complete nonsense.

Amendments put and a division taken with the following result -

Ayes (18)

Ms Anwyl  
Mr Brown  
Mr Carpenter  
Dr Edwards  
Dr Gallop

Mr Graham  
Mr Grill  
Mr Kobelke  
Ms MacTiernan  
Mr Marlborough

Mr McGinty  
Mr McGowan  
Ms McHale  
Mr Ripper

Mrs Roberts  
Mr Thomas  
Ms Warnock  
Mr Cunningham (*Teller*)

Noes (27)

Mr Ainsworth  
Mr Baker  
Mr Barnett  
Mr Bloffwitch  
Mr Bradshaw  
Dr Constable  
Mr Court

Mr Cowan  
Mr Day  
Dr Hames  
Mrs Holmes  
Mr Kierath  
Mr MacLean  
Mr Marshall

Mr Masters  
Mr Nicholls  
Mr Omodei  
Mrs Parker  
Mr Pendal  
Mr Prince  
Mr Shave

Mr Trenorden  
Mr Tubby  
Dr Turnbull  
Mrs van de Klashorst  
Mr Wiese  
Mr Osborne (*Teller*)

Pairs

Mr Riebeling  
Mr Bridge

Mr Board  
Mr House

**Amendments thus negatived.**

**Clause put and passed.**

**Clauses 35 to 38 put and passed.**

**Clause 39: Rectifying error in order -**

Mr COWAN: On page 11 of the Notice Paper members will see two amendments to clause 39. Again it is merely a slight change of wording. It does not change the intent. I move -

Page 20, line 6 - To delete ", or State agency" and substitute "or agency of the State".

Page 20, line 11 - To delete ", or State agency" and substitute "or agency of the State".

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clause 40 put and passed.**

**Clause 41: Notation on title to corridor land -**

Mr COWAN: Again there is an amendment to this clause on the Notice Paper. The amendment seeks to introduce two more words to this clause so it would read "title, plan, map". I move -

Page 21, line 8 - To insert after "title," the words "plan, map,".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 42: Functions in respect of corridor land and certain things on it -**

Ms MacTIERNAN: I wonder whether this is an appropriate time to ask a question about the Rail Corridor Minister's power to dispose of an interest in the corridor land. I understand from statements made by the Minister for Transport and by the various representatives of the sale task force that the Government intends imposing a prohibition on the participation of any government-owned rail operation in a tender that would lead to a disposal. Can the Government articulate the justification for this? I understand the decision made by the Government not to go down the way of a float. The Government decided it wanted an experienced rail operator to take control, and there are valid reasons for that. However, given that, why is an arbitrary decision being made to preclude a government-owned railway or a publicly-owned railway of any type tendering for this work? What is the cause for such bias?

Mr COWAN: It is considered inappropriate to take the best rail system in Western Australia and sell it to government-owned systems that are less profitable and that do not operate as well as Westrail operates. Why would we sell it to a company that has a lower quality service or lower quality operation? The member must be reminded that this also includes railway services owned by foreign governments.

Ms MacTiernan: How have you made a predetermination?

Mr COWAN: It is a matter of principle that in seeking to dispose of its rail freight business, the Government would not permit it to be sold to a rail service owned by another State Government or a foreign government.

Ms MacTiernan: What is the principle?

Mr COWAN: That is the principle. We did not want to sell it to a government entity.

Ms MacTiernan: Why? I gather you did not want to. I am seeking a logical, coherent explanation.

Mr COWAN: All I can say is that the Government does not regard that as being appropriate.

Ms MacTiernan: Why?

Mr COWAN: It is inappropriate; it does not need any other explanation. The member can ask a question as often as she likes. The Government regards it as inappropriate to sell a government entity to another government, and it will not do that.

Ms MacTIERNAN: I am really intrigued by this. It is inappropriate for unspecified reasons. That is interesting in the light of certain comments in an earlier debate in this place. The Minister for Police and the Minister for Local Government went off their unit about the prospect of a local government discriminating against private sector firms.

Mr Prince: That was not me; it was the Minister for Local Government.

Ms MacTIERNAN: I heard some weeping and gnashing of teeth coming from the direction of the Minister for Police.

Mr Cowan: Would you let the New South Wales and Queensland Governments buy this rail freight system? What are you suggesting?

Ms MacTIERNAN: I am suggesting that if that is a bona fide commercial opportunity, why not let anyone who satisfies the commercial criteria bid?

Mr Cowan: It would be entirely inappropriate.

Ms MacTIERNAN: The Deputy Premier keeps saying that. Somehow it is entirely inappropriate to let the State of New South Wales, for example, run our rail system, but it is not inappropriate to have a bunch of wealthy American shareholders, many of whom might also have commercial interests that are diametrically opposed to the commercial interests of Western Australia, own our freight rail network. It is inconceivable and inappropriate for some unspecified reason, to let a government-owned rail operation have a go at it!

The Opposition does not agree with this decision to sell the State's rail track network. We think it is entirely inappropriate. However, if it is to be done, how can the Government possibly justify cutting off these eminent and worthy competitors? Is it just that the Government is so keen to hand it over to an American company that it is terrified that someone like Rail Access Corporation or the Australian Rail Track Authority would be able to do a better job and the Government could not deliver what it had promised to deliver to these American companies?

The Deputy Premier is obviously having difficulty articulating why it is inappropriate other than the fact that it would be highly embarrassing. Could the advisers let the minister know whether this matter has been discussed with Allen Fels. Has the ACCC had the benefit of this decision? Is it giving the tick to such a grossly discriminatory process? Does the Deputy Premier accept there may be a trade practice impediment to this form of discrimination?

Mr COWAN: No; I do not accept that. As long as I have a place in the Western Australian ministry, I will be doing everything I can to ensure that the functions of the ACCC do not become all pervasive and invade just about everything within government responsibility in Western Australia.

I am surprised that the member raised this issue now because it does not come within this clause; nonetheless, the answer is of clear logic. It is not appropriate for another government agency to purchase Westrail.

Ms MacTiernan: It would be a political embarrassment.

Mr COWAN: I would not be embarrassed. I would see it as complete foolishness. There is no intention on the part of the Government to permit another state-operated rail service to purchase Westrail. In today's business world it is accepted that if we permit somebody to tender with no intention of accepting that tender for reasons that might be stated, there is a possibility some action could be taken. The State does not want to be in that position. It was felt that it would be more appropriate to indicate clearly that other state or foreign government rail entities would not be permitted to bid.

Ms MacTiernan: Is it the general policy that state government entities will not be able to compete for state-owned entities?

Mr COWAN: It is the policy in this instance. I can think of only one or two instances in which economies of scale would not impact on the operations of a state-owned entity where it could be absorbed into another entity which might be state-agency based, but which had a national operation. Certainly with respect to rail that will not be the case.

Ms MacTiernan: Will the Deputy Premier not even concede that the ARTC would be eligible?

Mr COWAN: In this case, no. It would have to go outside its intergovernmental agreement by which it is supposed to be providing services from capital city to capital city. I acknowledge, as the member for Armadale said earlier, there are one or two small high-volume lines in which the ARTC had some involvement. I do not believe it would want to move a long way outside its responsibilities as a corporation.

Ms MacTIERNAN: I understand the Deputy Premier's ideological objection to the ACCC and that it does not sit comfortably with him; nonetheless, sometimes we must do things that we do not like. For example, I note that the Government caved in to an ACCC order about allowing third party access on rail, which is why we had access legislation

before us. Notwithstanding the Deputy Premier's personal dislike for the concept of the Australian Competition and Consumer Commission, before the Government puts this arrangement out to tender, will it ensure that its discrimination against government competitors is legal and does not offend any trade practices legislation?

Mr COWAN: I give the member an unequivocal undertaking that in no circumstances would the Government seek to do anything that was unlawful or illegal. I am sure that it would receive advice to that effect.

Ms MacTIERNAN: Has this issue been checked with the ACCC?

Mr Cowan: No.

**Clause put and passed.**

**Progress reported and leave granted to sit again.**

*House adjourned at 5.01 pm*

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### QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

#### INDUSTRIAL RELATIONS, HOURS OF WORK

2627. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 6 March 1999 under the heading of "Hours stress hits workers: researchers"?
- (2) Is the Minister aware that the article reported the Australian Centre for Industrial Relations Research and Training claimed that more than 25 per cent of full-time workers are not happy with the amount of time they are putting in at work?
- (3) Is the Minister also aware that a spokesperson on behalf of the organisation said about a third of workers were grappling with excessively long or inadequate hours?
- (4) What action does the Government intend to take to deal with this problem?
- (5) Does the Government have any concern about the stress created by people-
  - (a) working excessively long hours; and
  - (b) only being provided with short term casual work with an inadequate number of hours?
- (6) If so, what action does the Government intend to take to remedy the problem?

Mrs EDWARDES replied:

- (1)-(3) Yes.
- (4) The Government will continue to inform employers and employees about the world wide trend of changing working patterns and the need to take a positive and realistic approach to the re-adjustment. It should be noted that the same researchers quoted in the article also report that 76% of full time workers in workplaces with 20 or more employees were happy with their hours.
- (5)
  - (a) Yes.
  - (b) In WA, full-time employment has grown by 15.9%. Casual employment represents 22%, of the total workforce but this has only grown 2.4 percentage points since 1993. Current ABS data shows that 74% of part-time employees do not wish to work more hours.
- (6) This Government has in place a labour relations framework which has allowed many employers and employees to successfully negotiate working hours and conditions which suit their needs. WA's labour market participation remains very strong and its sound economic performance will continue to facilitate full-time jobs growth. The Member will also note that a similar matter was referred to the WorkSafe Western Australia Commission subsequent to the issue being raised in question number 1953. This is now under consideration by the Legislation Advisory Committee of the Commission.

#### MINISTERIAL STAFF, PRESENTS AND SOCIAL FUNCTIONS

2738. Mr CARPENTER to the Minister for the Environment; Labour Relations:

- (1) Did the Minister use taxpayers money to pay for staff presents and/or for staff social functions during the 1998 calender year?
- (2) If yes -
  - (a) on what date;
  - (b) for what purpose; and
  - (c) how much was spent?

Mrs EDWARDES replied:

- (1)-(2) No.

#### MINISTERIAL STAFF, PRESENTS AND SOCIAL FUNCTIONS

2744. Mr CARPENTER to the Minister for Health:

- (1) Did the Minister use taxpayers money to pay for staff presents and/or for staff social functions during the 1998 calender year?
- (2) If yes -

- (a) on what date;
- (b) for what purpose; and
- (c) how much was spent?

Mr DAY replied:

- (1) No.
- (2) Not applicable.

#### MINISTERIAL STAFF, PRESENTS AND SOCIAL FUNCTIONS

2745. Mr CARPENTER to the Minister representing the Minister for Finance:

- (1) Did the Minister use taxpayers money to pay for staff presents and/or for staff social functions during the 1998 calendar year?
- (2) If yes -
  - (a) on what date;
  - (b) for what purpose; and
  - (c) how much was spent?

Mr COURT replied:

The Minister for Finance has provided the following response:

- (1) No.
- (2) (a)-(c) Not applicable.

#### MINISTERIAL STAFF, PRESENTS AND SOCIAL FUNCTIONS

2747. Mr CARPENTER to the Minister representing the Minister for Racing and Gaming:

- (1) Did the Minister use taxpayers money to pay for staff presents and/or for staff social functions during the 1998 calendar year?
- (2) If yes -
  - (a) on what date;
  - (b) for what purpose; and
  - (c) how much was spent?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response:

- (1)-(2) I refer the member to my answer to Question 2745.

#### WORKERS COMPENSATION, FALSE STATEMENTS

2799. Mr KOBELKE to the Minister for Labour Relations:

- (1) Are both injured workers and insurance company representatives required to tell the truth when providing information or answering questions as part of the required processes under the Worker's Compensation and Rehabilitation 1981?
- (2) If so, then what are the enforcement procedures available when an injured worker or insurance company representative makes a false statement to the Worker's Compensation and Rehabilitation Commissioner or an officer of the Commission?
- (3) In each of the last five years, how many instances of false or misleading statements by injured workers or insurance company representatives have been drawn to the attention of the Commission?
- (4) In each of these years, on how many occasions has the Commission sought to take some form of action against an injured worker or insurance company representative for making a false statement during proceedings required under the Act?

Mrs EDWARDES replied:

- (1) Yes.
- (2) All offences committed under the Workers' Compensation and Rehabilitation Act 1981, can be prosecuted by a Compensation Magistrate's Court.
- (3)
 

1994-95:	1 under Section 84ZC(e), Misleading statement before a review Officer;
1995-96:	Nil cases;
1996-97:	6 under Section 188, Fraud;
1997-98:	14 under Section 188, Fraud; 2 Insurer Complaints, and 1 under Section 84ZC(e) Misleading statement before a Review Officer; and
1998-99:	1 under Section 84W, False statement to a Conciliation Officer; 4 under Section 188, Fraud; 1 under Section 84ZC(e) Misleading statement before a Review Officer.

- (4) All of the above have been investigated, however, no prosecution action was taken.

#### WORKPLACE AGREEMENTS

2837. Mr BROWN to the Minister for Labour Relations:

- (1) Further to question on notice No 2202 of 1999, does the Minister accept that the introduction of workplace agreements has led to the growth of casual and insecure employment?
- (2) If not, on what grounds does the Minister make that claim?

Mrs EDWARDES replied:

- (1) No.
- (2) Over the 6 years since the introduction of the Workplace Agreements Act 1993, 149,800 jobs have been created in Western Australia. Of these, 88,600 (or over 60%) were full-time positions and 61,200 were part-time. Over the 6 years to February 1999, full-time employment has grown by 15.9%. Over the 6 years prior to the introduction of the Act, only 85,200 jobs were created of which 39,100 (46%) were full-time jobs and 46,100 were part-time. Over the 6 years to December 1993, full-time employment grew by just 6.7%. Clearly, the Workplace Agreements Act has facilitated strong full-time jobs growth. Growth in casual employment was a trend that was evident well before this Government came to power. In 1990, casual employment represented 16.3% of the total workforce. This had increased to 19.6% (by 3.3 percentage points) at the time of the introduction of the Workplace Agreements Act. By 1998, 22% of the total workforce was casual - an increase of only 2.4 percentage points. Since the introduction of the Workplace Agreements Act, the pace of growth of casual employment has actually slowed.

Modes of employment are changing and while the Government has been successful in creating significant full-time work, it cannot be assumed that this is the only "valid" type of employment. Jobs are now being created which are part-time and casual in response to a number of supply side factors such as increased female participation rates. For instance, ABS data show that many mature aged women, balancing work and family responsibilities, prefer this type of employment in addition to students who wish to supplement their income whilst studying.

#### PLANNING LEGISLATION AMENDMENT BILL (No 2) 1994, LOCATION OF PROPERTIES

2965. Dr EDWARDS to the Minister for Planning:

With respect to the Planning Legislation Amendment Bill (No 2) 1994 and the then Minister's comments that 11 properties were affected -

- (a) what is the location of each property;
- (b) how much compensation was paid in each case;
- (c) on what date was compensation paid;
- (d) from how many properties have "refunds" been obtained;
- (e) what is the total of the amount paid; and
- (f) what is the estimated outstanding amount?

Mr KIERATH replied:

- (a)-(c) See below -

List of properties referred to by the Hon Minister for Planning in the second reading speech on the Planning Legislation Amendment Bill (No 2) 1994 in reference to Amendment to Compensation under Section 36 of the Metropolitan Region Town Planning Scheme Act.

Property description	Date Compensation Paid	Compensation Paid (\$)
Lot 2 (N293) Bulwer Street, PERTH	16/07/81	5,000
Pt Lot 664 (N89) Water Road, BASSENDEAN	10/10/86	12,000
Lot 6 (N62) River Road, BAYSWATER	17/03/77	8,000
Lot 945 River Road, BAYSWATER	21/07/75	6,000
Lot 374 (N23) Hillside Crescent, MAYLANDS	29/04/77	9,000
Lot 373 (N25) Hillside Crescent, MAYLANDS	28/01/77	9,000

Lot 372 (N27) Hillside Crescent, MAYLANDS	09/09/81	11,000
Lot 429 (N6) Richard Street, MAYLANDS	27/08/75	4,000
Lot 430 (N8) Richard Street, MAYLANDS	14/07/86	10,500
Lot 15 (N5) Stone Street, MAYLANDS	09/12/87	37,500
Lot 211 (N10) Hubble Street, EAST FREMANTLE	13/01/74	3,000
<b>TOTAL</b>		<b>115,000</b>

- (d) Four.
- (e) \$156 638
- (f) The Proclamation of the Planning Legislation Amendment Act (No 2) 1994 resulted in four properties on the schedule being exempt from liability for the refund of compensation which together with the four refunds that have been received, results in three properties remaining subject to the refund (repayment) of compensation. The refund is calculated based on the current value of the property determined by private licensed valuation at the time the landowner "triggers" one of the statutory repayment requirements, that is, the sale, subdivision or other arrangement agreed with the Western Australian Planning Commission. It is therefore not possible to estimate the outstanding amount of the refunds for the three properties.

#### ATLAS WASTE SITE, BALED WASTE

2971. Mr KOBELKE to the Minister for the Environment:

- (1) Do licences issued under the Environmental Protection Act 1986 for landfill sites generally use as a criteria for "inert waste" that as a minimum the vehicle load of waste entering the premises and disposed of to the landfill shall contain not less than 95% inert waste?
- (2) Was a condition of licence no. 6764/2 issued under the Environmental Protection Act 1986 for the Atlas site in Noranda that baled waste disposed of to the inert landfill site shall not contain less than 95% inert waste?
- (3) Did licence no. 6764/3 under the Environmental Protection Act 1986 issued for the Atlas site in Noranda change from the previous version of the licence so as to allow that baled waste could be deposited to this inert landfill site provided it approaches or exceeds 95% inert waste?
- (4) Why was the condition which restricted the quantity of non-inert waste to be deposited to an inert site varied between licences 6764/2 and 6764/3?
- (5) Is there any objective definition as to when baled waste is to be judged to approach a 95% inert content?
- (6) If the answer to (5) above is yes, will the Minister detail as to what level of putrescible or non-inert waste is to be acceptable for the purpose of allowing baled waste into an inert waste site such as Atlas operate in Noranda?
- (7) Does baled waste containing 40% putrescible and 60% inert meet the criteria that it approaches 95% inert material as required by the licence?
- (8) If the answer to (7) above is yes, can that waste be legally deposited at Atlas' inert waste disposal site?

Mrs EDWARDES replied:

- (1)-(3) Yes.
- (4) In response to an appeal by Atlas Group Pty Ltd.
- (5)-(6) The Chief Executive Officer of the Department of Environmental Protection, or suitable delegated person under the *Environmental Protection Act 1986*, would be charged with making that assessment.
- (7) No, however this would be a judgement made by the Chief Executive Officer on the basis of information provided.
- (8) Not applicable.

#### CONSULTANTS, NUMBER, PURPOSE AND COST

2992. Mr BROWN to the Minister for the Environment; Labour Relations:

- (1) How many consultants are currently engaged by each department and agency under the Minister's control?
- (2) What is the name of each consultant?
- (3) What is the purpose or the nature of the consultancy?
- (4) What is the cost of the consultancy?
- (5) What is the anticipated completion date of the consultancy?

Mrs EDWARDES replied:

- (1)-(5) The member would be aware that a six monthly report is tabled in Parliament which provides information on consultants engaged by Government agencies. The member should access this report when it is tabled to obtain the information sought in his question.

GOVERNMENT CONTRACTS, IN EXCESS OF \$50 000

3033. Mr BROWN to the Minister representing the Attorney General:

- (1) How many contracts of \$50 000 or more (excluding employment contracts) has each department or agency under the Attorney General's control entered into between 1 January 1999 and 31 March 1999?
- (2) What was the amount of each contract?
- (3) What is the name of each person/entity with whom the contract has been entered into?
- (4) What is the nature of the work or services required by the contract?
- (5) What is the completion date of each contract?

Mr PRINCE replied:

The Attorney General has provided the following reply:

*Ministry of Justice:*

(1) 12

(2)-(5)

1. \$1,000,000  
Sedgwick Ltd  
Insurance Brokerage Services  
10 January 2000
2. \$272,000  
KPMG Management Consulting  
Business Process Re-engineering and Workflow Analysis  
26 April 1999
3. \$111,706  
Sands and MacDougall  
Supply of Consumables  
22 March 2000
4. \$106,534  
MGE UPS Systems  
Uninterruptable Power Supply Hardware  
7 March 2000
5. \$172,270  
AlphaWest Pty Ltd - Ken Angus  
Network Routers  
9 April 1999
6. \$182,743  
PC Help - HP Option  
Network Hub and Switch Ports  
19 April 1999
7. \$51,000  
School of Psychology, University of SA  
Evaluation of Anger Management Programs  
31 December 2000
8. \$70,560  
Auburna Consulting  
Technical Assistance for Implementation of the Human Resources Information System Project.  
30 June 1999
9. \$86,270  
Sage Computing Services  
Passim System Re-engineering for the Office of the Director of Public Prosecutions.  
23 June 1999
10. \$79,240  
Oracle Corporation  
Year 2000 Test Coordination  
14 September 1999
11. \$400,000  
CMC TAFE  
Aboriginal Interpreter Program  
2 March 2000

*Crown Solicitors Office, Director of Public Prosecutions, Equal Opportunity Commission, Law Reform Commission, Office of the Information Commissioner and Solicitor General:*

- (1) Nil.
- (2)-(5) Not applicable.

*Legal Aid:*

- (1) Nine.
- (2) (a)-(i) \$52,700
- (3)
  - (a) Pryles & Defteros
  - (b) Michael Tudori & Associates
  - (c) Beau Handbury
  - (d) Gunning
  - (e) McDonald & Sutherland
  - (f) J Bougher
  - (g) Stephen Smith
  - (h) Glenn Solicitors
  - (i) Julie Wager
- (4) (a)-(i) Legal services
- (5) (a)-(i) 30 June 1999

#### GOVERNMENT CONTRACTS, IN EXCESS OF \$50 000

3051. Mr BROWN to the Parliamentary Secretary to the Minister for Justice:

- (1) How many contracts of \$50 000 or more (excluding employment contracts) has each department or agency under the Minister's control entered into between 1 January 1999 and 31 March 1999?
- (2) What was the amount of each contract?
- (3) What is the name of each person/entity with whom the contract has been entered into?
- (4) What is the nature of the work or services required by the contract?
- (5) What is the completion date of each contract?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

- (1)-(5) I refer the member to my answer to Question On Notice 3033.

#### CHIEF EXECUTIVE OFFICERS, SALARY INCREASES

3100. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in *The Australian Financial Review* on 3 May 1999 under the heading of "Paying heed to public debate"?
- (2) If so, is the Minister also aware that the article dealt with the rapidly rising pay packets of Australia's corporate chief executive officers?
- (3) Is the Minister aware of any surveys which measure the degree to which chief executive officers salaries have increased since 1993?
- (4) What surveys is the Minister aware of?
- (5) What wage increases do the surveys reveal?
- (6) Are the wage increases granted to chief executive officers similar, in percentage terms to the salary increases received by people since 1993 who are paid -
  - (a) average weekly earnings;
  - (b) the minimum wage under the Minimum Conditions of Employment Act 1993;
  - (c) the minimum wage awarded by the Australian Industrial Relations Commission; and
  - (d) the minimum award wage determined by the Western Australian Industrial Relations Commission?

Mrs EDWARDES replied:

- (1)-(2) Yes.
- (3) There have been a number of recent surveys on Chief Executive Salaries, however they only relate to CEO salaries over the past twelve months. Some of the surveys appear to be extremely volatile, probably due to the small sample size used in some of them.

- (4) The Australian Institute of Management (AIM); Towers, Perrin; and Mercer, Cullen, Egan and Dell have conducted recent surveys.
- (5) Over the last year, surveys conducted on CEO salaries suggest growth ranging between 3 and 6%.
- (6) There are no surveys available that measured CEO salaries from 1993. However, in comparison with the increases in CEO salaries that have occurred over the past twelve months:
  - (a) Average Weekly Ordinary Time Earnings (AWOTE) increased by 5.1% in WA in the year to December 1998.
  - (b) Wage increases for the minimum wage under the Minimum Conditions of Employment Act 1993 grew by around 3.5%
  - (c) Minimum award wage increases granted by the Australian Industrial Relations Commission (AIRC) have increased by 3.2%.
  - (d) Minimum award wage increases granted by the Western Australian Industrial Relations Commission (WAIRC) have increased by 3.9%.

#### WAGES GROWTH

3103. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in the *Australian Financial Review* on 30 April 1999 under the heading of "Wages growth hits a four year low"?
- (2) Is the Minister aware that the article reports wages growth in Australia has fallen to its lowest level in more than four years?
- (3) Is that report correct?
- (4) Have wage and salary levels for corporate chief executive officers grown faster than average weekly ordinary time earnings in the last four years?
- (5) By the Minister's calculations, what is the difference between the two?

Mrs EDWARDES replied:

- (1)-(2) Yes.
- (3) Average Weekly Ordinary Time Earnings (AWOTE) in the February quarter 1999 grew by 0.2% nationally and fell by 1.8% in Western Australia. It is true that these quarterly outcomes are the lowest quarterly wage increases in more than 4 years. However, annual rates of growth are much higher - still moderate at 4% nationally and relatively robust, at 4.6% in WA. More moderate wage outcomes, however, are important in that they can facilitate stronger employment growth.
- (4) It is impossible to compare growth rates in CEO salaries and growth in Average Weekly Ordinary Time Earnings (AWOTE) over the last four years, as surveys on CEO salaries have only been conducted in recent times. Over the last year, however, surveys conducted on CEO salaries suggest growth ranging between 3% and 6%. Given the variability in growth rates from various surveys available, it is difficult to make a valid comparison between CEO salary growth and wages growth more generally. On average, however, it appears that CEO salaries have increased in line with AWOTE, which grew by 5.1% in the year to December 1998.
- (5) There appears to be considerable volatility in the results produced by surveys conducted on CEO salaries. It is difficult, therefore, to determine whether growth in salaries for CEO's has in fact exceeded growth in wages more generally.

#### SPORTS CENTRE TRUST

3140. Mr McGOWAN to the Parliamentary Secretary to the Minister for Sport and Recreation:

- (1) Does the Government subsidise operations of the Sports Centre Trust?
- (2) If yes, by what amount?
- (3) Does the Trust manage Arena Joondalup?
- (4) If yes, will it subsidise losses of Arena Joondalup?
- (5) Why do other local authorities have to subsidise operational losses from pools or recreation centres whilst the local authorities in the vicinity of the Arena do not?

Mr MARSHALL replied:

- (1) Yes.
- (2) In the 1998/99 financial year, \$2.781 million will be utilised to fund the operating losses of all facilities coming under the jurisdiction of the WA Sports Centre Trust.

- (3) Yes. Ownership and Management responsibility of Arena Joondalup was transferred from LandCorp to the WA Sports Centre Trust on 1 January 1997.
- (4) Yes.
- (5) The State Government does not fund the operating losses of sport and recreation facilities falling under the jurisdiction of Local Government authorities. The decision to build Arena Joondalup was made by the previous Labor Government and operating losses were expected to be met by LandCorp.

COLOONGUP PRIMARY SCHOOL, CAR PARK

3156. Mr McGOWAN to the Minister for Education:

I refer to the need for a new Coloongup Primary School car park and ask -

- (a) what amount has the Government set aside to build this car park;
- (b) when will the Government be constructing this car park;
- (c) does the Government accept that this car park is essential for the safety of school children and parents; and
- (d) when will the car park be built?

Mr BARNETT replied:

- (a) The total cost of the car park is \$28 000. The Education Department's contribution is \$15 000, while the City of Rockingham is to consider an allocation of \$13 000 within their 1999/2000 budget.
- (b)-(d) Construction of the car park will take place as soon as the City of Rockingham confirms their approval of funding.
- (c) Yes.

FOREST PROTESTS, NUMBER OF PEOPLE CHARGED

3179. Dr EDWARDS to the Minister for Police:

- (1) How many people have been charged in relation to forest protests in the south west of Western Australia in 1999 to date?
- (2) What are the nature of these charges?
- (3) What has the cost to the Western Australian Police Service been in 1999 to date as a result of these charges?

Mr PRINCE replied:

- (1) 36.
- (2) Preventing lawful activity (23)  
Assault occasioning bodily harm (1)  
Damage (2)  
Common assault (2)  
No motor drivers' licence - suspended (2)  
Hindering police (2)  
Unregistered vehicle (1)  
False name (1)  
Resist arrest (1)  
Refuse name/address (1)
- (3) \$21,370.

HERITAGE COUNCIL, EXPENDITURE ON INDEPENDENT SURVEY

3214. Ms McHALE to the Minister for Heritage:

- (1) How much has the Heritage Council spent per year on the independent survey to obtain quantitative and qualitative feedback on its services for the years -
  - (a) 1996;
  - (b) 1997;
  - (c) 1998; and
  - (d) 1999?
- (2) Who has conducted the survey in each of those years?

Mr KIERATH replied:

- (1)-(2) (a) \$3 340.50 Robertson-Hill & Knowlton
- (b) \$4 990.00 Robertson-Hill & Knowlton
- (c) \$5 500.00 The Boshe Group
- (d) \$10 610.00 Robertson-Hill & Knowlton

## QUESTIONS WITHOUT NOTICE

### REGIONAL FOREST AGREEMENT, CHANGES

**956. Dr GALLOP to the Premier:**

Was the Premier's Liberal Party colleague and federal Minister for Forestry and Conservation correct when he stated yesterday that the Premier had given him an assurance that the State Government would not be adding to the reserve system because that would be a breach of the Regional Forest Agreement?

**Mr COURT replied:**

The Government signed a regional forest agreement and Mr Tuckey said that we could not change it unilaterally. That is right; we would need agreement on both sides. That is standard with any agreement.

### REGIONAL FOREST AGREEMENT, CHANGES

**957. Dr GALLOP to the Premier:**

I have a supplementary question. Is the Premier telling us that he is approaching the Federal Government to make changes to that agreement?

**Mr COURT replied:**

No; I have not done that.

### HEALTH SERVICES, ARMADALE-KELMSCOTT

**958. Mr TUBBY to the Minister for Health:**

What is the State Government doing to attract additional medical services to the south east and metropolitan regions, specifically to the Armadale-Kelmscott district?

**Mr DAY replied:**

I thank the member for some notice of this question.

As I have explained previously, the Government acknowledges that, in addition to providing a new 120-bed public hospital on the site of the existing Armadale-Kelmscott Memorial Hospital for which we have allocated \$48m, there will also be substantial benefits in attracting a number of private beds to be collocated on the same site. With the addition of private beds there will be greater activity on the site generally and that will attract more medical specialists and medical services to the area.

I am pleased to say that that view is supported by the Armadale and Gosnells City Councils, the Shire of Serpentine-Jarrahdale, the community reference group for the project, the medical profession and the member for Armadale, if I can believe her comments in the *Armadale Examiner* of 9 April in which she is quoted as saying -

I acknowledge there may be some benefits to have privately funded facilities co-located at our public hospital.

I appreciate the support of the member for Armadale for this proposal. Cabinet has therefore decided that there will be a minimum of 60 private beds collocated on the Armadale hospital site. Those beds and the wing in which they will be located will be funded by the private sector.

Cabinet has also decided that an expressions-of-interest process will be undertaken to determine the interest from the private sector in constructing that wing and providing the private beds. That EOI documentation is now being prepared. We are not waiting for that process to be completed before getting on with the job because the design work is being undertaken. In addition, the tender for the site works will be advertised in the Press over the coming weekend. I expect it will be able to commence by the end of September.

Ms MacTiernan: Is that in addition to the 120 beds?

Mr DAY: It certainly is - a minimum of 60 private beds will be provided in addition to the 120 public beds.

### NATIONAL PARTY, PROTECTION OF OLD-GROWTH FORESTS BOTTOM LINE

**959. Dr GALLOP to the Deputy Premier and Leader of National Party:**

My question relates to the National Party's forest policy.

- (1) What is the bottom line for the National Party on the protection of more icon or old-growth forest?
- (2) Is that bottom line a condition of the coalition with the Liberal Party?

**Mr COWAN replied:**

- (1)-(2) I am very pleased that the Leader of the Opposition has read the issues paper regarding the National Party's forestry policies.

Ms MacTiernan: It was a waste of good trees in our view.

Mr COWAN: I thought it was a very good policy in as much as many of its issues have been brought into the Regional Forest Agreement. We now have a sustainable yield, a clear agreement which refers to important issues, such as the restructuring of the Department of Conservation and Land Management, and a range of other things. To return to the question from the Leader of the Opposition, the Premier said yesterday that the Regional Forest Agreement will be examined very closely. Before I start telling the Leader of the Opposition and announcing what we will or will not achieve, it would be polite to allow us to at least begin the examination and review.

#### NATIONAL PARTY, FOREST POLICY

##### **960. Dr GALLOP to the Deputy Premier and Leader of National Party:**

As a supplementary question, was the federal Minister for Forestry and Conservation, Wilson Turkey, correct when he stated yesterday that the forest policy of the WA National Party was merely a disgraceful and opportunistic money-grubbing attempt to solicit donations?

##### **Mr COWAN replied:**

No.

#### RECREATIONAL FISHING, WORKING GROUP MEMBERSHIP

##### **961. Mr MASTERS to the Minister for Fisheries:**

Can the minister please advise membership of the working group to undertake a 12-month review of recreational fishing along the west coast of Western Australia, including Geographe Bay, and the public consultation to be undertaken as part of this review?

##### **Mr HOUSE replied:**

The Fisheries Department has started a comprehensive review of all recreational fisheries around Western Australia. Indeed, we have started in fisheries in the mid-north around Shark Bay. Last year, members will recall, we had to take the first substantive action to close a primarily recreational fishery in the eastern gulf of Shark Bay. The indicators were that the fish stocks had reduced to a low level, and consequently, and as a result of scientific advice received, we decided to undertake a complete and comprehensive review of all recreational fisheries in Western Australia. We have just begun, as the member for Vasse indicated, a complete review of the west coast recreational fishery, and its interaction with the professional fishery and the fish stocks available for recreational fisherman.

A series of meetings will be held up and down the west coast which will begin soon. The preliminary work has been done. The member will be advised of meetings to take place in his region to ensure that he can attend and to ensure that others in the region attend. I encourage people to take part in the review, which offers an opportunity for recreational fishermen to make their views known. It will also ensure that proper research is conducted into recreational fish stocks. It has been done in the past with professional fish stocks, but not recreational fisheries.

#### REGIONAL FOREST AGREEMENT, ADDITIONS TO RESERVE SYSTEM

##### **962. Dr GALLOP to the Minister for the Environment:**

I refer to the minister's claim that the Regional Forest Agreement did not allow for additions to the reserve system without the Commonwealth's approval. Was the minister referring to a legal restraint or a threat by her federal Liberal colleague Wilson Tuckey to withdraw funds?

##### **Mrs EDWARDES replied:**

I suggest the Leader of the Opposition take time to read the agreement. It is referred to in the agreement.

#### OLD-GROWTH FORESTS, QUARANTINE

##### **963. Dr GALLOP to the Minister for the Environment:**

As a supplementary question, was Mr Wilson Tuckey right when he said on ABC radio yesterday that he was positive that the coalition Government in Western Australia would not seek to quarantine more forests in Western Australia because he had more respect for the integrity of Richard Court and his Cabinet?

##### **Mrs EDWARDES replied:**

What can I say about our integrity?

#### SELBY CHILD AND ADOLESCENT CLINIC MENTAL HEALTH SERVICE

##### **964. Dr CONSTABLE to the Minister for Health:**

- (1) Has a decision been made to close the Selby Child and Adolescent Clinic mental health service at Shenton Park next week?
- (2) Will this service ultimately be relocated to the northern suburbs?
- (3) Will the minister concede that relocating this vital mental health service from a centrally located site in Shenton Park to a northern suburb will put at risk many hundreds of young people from the southern and central suburbs who will be effectively denied this service?

**Mr DAY replied:**

- (1)-(3) I thank the member for some notice of the question. I am advised that it is not correct that the Selby Child and Adolescent Clinic mental health service in Shenton Park will be closed next week. However, I am advised that discussions are taking place with Princess Margaret Hospital for Children and the North Metropolitan Health Service with a view to relocating the Selby outpatient clinic somewhere in the north metropolitan catchment area, which is where it is located at the moment. I am advised that it is necessary to move the clinic to the new site because of the construction of the high school on the existing site. I am also advised that, generally speaking, there is a greater demand for the service in the northern suburbs of the metropolitan area.

Dr Constable: It leaves the central and southern suburbs without a service.

Mr DAY: Other suburbs will not be left without a service at all. I will come to that.

The discussions are based on the report of a working party conducted in January of this year by Princess Margaret Hospital and other stakeholders which identified the relative needs in various areas of the metropolitan area. Any new site determined will be close to a major transport route. I am also advised that the aim is to find a new site which will still be relatively central as far as the overall metropolitan area is concerned. I understand that it might not be far from the electorate of Churchlands. The fact is that this service is currently provided from one site in the metropolitan area. Whether one is from the east of the metropolitan area, which I represent, the southern area or the northern suburbs, in many cases some travel is required to access the service. Obviously, some travel will be required by some people to access any new site. However, the aim is to find a relatively central location.

### YOUTH, TRAINING

**965. Mrs HOLMES to the Minister for Employment and Training:**

Recently the federal opposition spokesperson on education made some sweeping statements about training in Australia that may impact on people in my electorate. Will the minister please advise whether these comments are valid in Western Australia?

Ms MacTiernan: What comments are they? How do you know the answer to the question?

**Mr KIERATH replied:**

Because the member gave me some notice of her question. Labor Senator Kim Carr's comments could lead some people to a perception and poor understanding of training in this State. I know that that is standard operating procedure for some people in the Opposition. However, I want to put the record straight.

Senator Carr said, firstly, that only 18 per cent of TAFE students were under the age of 20 years, yet 24 per cent of TAFE students in Western Australia are aged under 20 years. Also, some 38 per cent of the total publicly funded training hours are for people aged under 20 years. As any sensible person would understand, most of those young people are in full-time courses, which explains the percentage of hours being far greater than the percentage of total student numbers.

The senator also said that teenagers are being locked out of training. The majority - 57 per cent in fact - of apprentices and trainees in this State are aged under 20 years, despite the fact that many employers prefer hiring more experienced workers.

Ms MacTiernan: For apprenticeships?

Mr KIERATH: Yes. That is how out of touch the member is. Most people who hire apprentices require a more mature person of a higher age, and employers have a natural bias for employing those people, but, despite that, nearly 60 per cent of our apprentices and trainees are under the age of 20 years.

He said also that the State and Federal Governments are at fault because apprentice failure rates have gone up. Our failure rates in this State are the same as the university attrition rates. There is nothing unusual about young people in training as opposed to young people at university; they leave for similar sorts of reasons. There are many reasons for it, some of which are changing employment opportunities and changing job preferences, and, in many cases, personal circumstances. He went on to allege government cutbacks. Even the members of the Opposition would know that in the last state budget, the budget of the Western Australian Department of Training increased by some 3 per cent in the area of training. That again is another furphy that they have raised. I put this to members of the Opposition: Unfortunately, when their prophets of doom spread this doom and gloom around, who do they think they really hurt? Do they hurt the Government? No. They hurt the young people who are in training. To make these sorts of unsubstantiated allegations is outrageous. All it does is discourage employers and trainers and help to demoralise our young. We on this side of the House try to be positive, especially because this State is doing better than most. I hope - this is a challenge - that members opposite will join us in being positive; and if they cannot do that, at least they should keep their federal members better informed about the true state of training in this State.

### RAILWAY SLEEPERS, TIMBER USED

**966. Dr EDWARDS to the Minister for the Environment:**

Is the minister aware of the comments of the deputy leader of the National Party during last week's debate on the High Conservation Value Forest Protection Bill when he said, "I do not believe anyone would disagree that we do not need to cut down good timber to make railway sleepers"? Is it government policy to stop the use of our precious native forests for railway sleepers?

**Mrs EDWARDES replied:**

I agree absolutely with the deputy leader of the Government -

Several members interjected.

Mrs EDWARDES: The deputy leader of the National Party. We are in total agreement about this. In response to the Regional Forest Agreement, the industry will be restructured, it will move towards greater value-adding, and it will move towards local manufacturing. Yesterday, I had the opportunity of going to the jarrah sawmilling operation in Jarrahdale at the old Bunnings site, and what they are doing with what is normally sold for firewood is just exceptional. There is the opportunity to do more, with fewer resources, and that is what this Government is committed to doing, to ensure that people have jobs, unlike the Labor Party, which is not interested in having a timber industry restructuring and getting it to value-add but wants to retrain, relocate and make redundant the workers from the timber industry.

## RAILWAY SLEEPERS, CONTRACT FOR FIRST-GRADE TIMBER

**967. Dr EDWARDS to the Minister for the Environment:**

I ask a supplementary question. Is the minister aware that Westrail is in the process of awarding contract No 93/98 for the supply and delivery of 30 000 type A and 5 000 type B first-grade timber railway sleepers?

**Mrs EDWARDES replied:**

No, I am not, but we want the timber industry to restructure and go to greater value-adding and to greater levels of local manufacturing, and the RFA will deliver that.

## NALTREXONE, INCLUSION IN THE PHARMACEUTICAL BENEFITS SCHEME

**968. Mr BAKER to the Minister for Health:**

I refer to the obvious benefits of having the opiate treatment drug naltrexone included in the pharmaceutical benefits scheme. Can the minister provide this House with a brief progress report about the inclusion of this important drug in this scheme?

**Mr DAY replied:**

I thank the member for some notice of the question. I remind members that I wrote to the Federal Minister for Health, I think earlier this year, requesting that naltrexone be listed on the pharmaceutical benefits scheme. I understand that matter will be considered by the pharmaceutical benefits advisory committee on 16 July at a special meeting. The advisory committee is the independent body which is responsible for determining these matters, so to that extent it is responsible to provide advice and determination to the Federal Government.

I also take the opportunity of reminding members that naltrexone is now available through Next Step, the specialist alcohol and drug treatment service of the State Government, at no cost; and together with the expansion of drug trials, which will be undertaken through Next Step, and the fact that naltrexone is now available at no charge through that organisation for those who cannot afford it, we are going a long way towards better addressing the needs of heroin addiction in this State.

## FORESTS, INCREASE IN ICON BLOCKS PLACED IN RESERVES

**969. Mr McGOWAN to the Minister for Local Government:**

I refer to the National Party's reported push for more so-called icon blocks to be placed in reserves. Would such an outcome be acceptable to local government authorities in the south west?

**Mr OMODEI replied:**

Which local governments in particular is the member talking about, and perhaps he should be asking them.

## LOCAL GOVERNMENTS, SUPPORT FOR MORE FORESTRY RESERVES

**970. Mr McGOWAN to the Minister for Local Government:**

I ask a supplementary question. Would the minister be prepared to stay on as Minister for Local Government if more reserves were created?

**Mr OMODEI replied:**

Is this supplementary to asking -

Dr Edwards: Answer the question!

The SPEAKER: Order! Sometimes it is a fine line as to whether something is a supplementary. It is really meant to be a follow-on question. I suppose in some obscure way it is a follow-on question, and I will allow it, but I ask members to think carefully.

Mr OMODEI: From what I can gather, the local governments that I represent in my electorate strongly support the RFA and the RFA process, and the reservations that have occurred as a result of that process and the areas that have been set aside of old-growth forest, and others. They also support the restructuring of the timber industry, as just outlined by the Minister for the Environment, and I support those local governments.

## SCHOOL, FLORIDA ESTATE

**971. Mr MARSHALL to the Minister for Education:**

The population boom in the Melros-Florida-Dawesville suburbs of Mandurah has seen a demand for a new primary school south of the Dawesville Channel. Will a new primary school south of the channel be established before 2002, and what location has been selected for such a project?

**Mr BARNETT replied:**

I thank the member for Dawesville for this question and for the work he has been doing with the local community, and in lobbying me and the Education Department about population growth south of the Dawesville Channel. He has been extremely successful, and he deserves that success. I am delighted to confirm that a new primary school will be built in the Florida estate and will open from the beginning of the 2001 school year. Like all new government schools, that will be a superb facility. It will cost around \$4m. It will have 12 classrooms and three pre-primaries, and will include an education support centre, optic fibre cabling throughout, and library, resource, art, craft and other facilities. I know the constituents of that area will be very pleased, and they should thank the member for Dawesville, who has played a significant role in achieving this. It is symptomatic of the growth in population that when that school opens in January 2001, it is estimated that it will have at least 300 students.

## WHITTAKERS LTD, GREENBUSHES

**972. Dr EDWARDS to the Premier:**

Is the Premier aware that the receivers of Whittakers Ltd's timber mill in Greenbushes have moved to dispel concerns that the mill may close? If so, why is the Premier reportedly considering a proposal by the National Party to trade off logging contract commitments to Whittakers against proposed new forest reserves so as to minimise the impact on the timber industry? Why would anyone want to buy Whittakers when the Premier and the Deputy Premier are reported as holding secret meetings to discuss taking away Whittakers' logging contracts?

**Mr COURT replied:**

If any secret meetings have been held, I have not been told about them. I am not aware of what a receiver has said about Whittakers' operations.

## ASSAULTS ON PUBLIC OFFICERS

**973. Mr MacLEAN to the minister representing the Attorney General:**

What penalties are in place for a person convicted of assaulting a public officer?

Mrs Roberts: Is this your next plan for Minister Murray Criddle?

**Mr PRINCE replied:**

As a matter of interest, threats of assaults to ministers are classified differently from those against a public officer. Section 318 of the Criminal Code makes mention of assaulting a public officer who is performing a function in his office, a person who is performing a public nature function and someone who is aiding and abetting, for example, a police officer or someone else in the execution of his duty. It also makes mention of an assault upon a person operating either a rail car, a ferry or a passenger vehicle, which includes buses and taxis, of which people should know. The driver of a bus or taxi is regarded as a public officer for the purposes of this section of the code. Up until early 1995, the penalty on indictment was five years' imprisonment, and on a summary penalty two years or a fine of \$7 500. This Parliament changed the law on 20 January 1995 as a result of a government Bill. The current maximum penalty for assaulting a public officer is 10 years' imprisonment, and on a summary conviction a maximum of three years' imprisonment or a \$12 000 fine. It was an appropriate increase at the time and it is something that people should bear in mind the next time they want to take on a taxi driver because they argue about the fare.

## LOCAL GOVERNMENT PRODUCT BOYCOTTS, GOVERNMENT POLICY

**974. Mr McGOWAN to the Premier:**

- (1) Was the Minister for Local Government articulating official government policy yesterday when he threatened to legislate to make it illegal for democratically elected councils to adopt a policy to boycott certain companies and products associated with woodchipping in native forest?
- (2) If he was enunciating government policy, will the Premier be delivering the official government threat personally to the Nedlands City Council in his electorate which voted on Tuesday night to reject the motion to overturn its policy of boycotting woodchippers?
- (3) Will the Premier hide behind his Minister for Local Government or stand up for democratically elected local governments in this State?

**Mr COURT replied:**

- (1)-(3) My main criticism of the Nedlands City Council is that it has been chopping down the trees in front of my house! Fortunately, the power eventually will be placed underground and the council will not need to continue with that

policy. When councils begin to pick and choose which companies they will deal with on political lines, it becomes a dangerous policy, whether it be a Federal Government, a State Government or local government. A Government must be careful when it is spending taxpayers' funds about being choosy as to which companies it will deal with.

#### TRAINING, EMPLOYMENT OUTCOMES

**975. Mrs HODSON-THOMAS to the Minister for Employment and Training:**

Can the minister inform the House whether the criticism that training provided in this State is too narrow is reflected in the employment outcomes?

**Mr KIERATH replied:**

I spoke earlier about Labor's federal spokesman making sweeping generalisations on training, some of which are negative and likely to create the wrong impression. Another criticism was that the training provided a narrow skill base. That is completely wrong. The way to assess training effectiveness is by evaluating the number of graduates obtaining employment. This State has an excellent record; 92 per cent of graduates obtain jobs within 12 weeks. For those who have completed only part of their course, some 73 per cent obtain their jobs 12 weeks after leaving. Very successful job results are achieved in this State as a result of training.

Unlike Labor, which used to park young people in apprenticeships and traineeships to get them off the unemployment list and not target and tailor their training to employers' requirements, we on this side of the House have tried to provide relevant training that fits the employers' requirements, and we believe that is the only way that training can translate into jobs. That subtlety sometimes escapes those opposite. The truth is that if a person in this State undertakes a TAFE course, he or she has a 92 per cent chance of obtaining a job. It is an excellent result, and everybody involved should be congratulated.

#### INTERIM FOREST ADVISORY COMMITTEE, MR TREVOR RICHARDSON

**976. Dr EDWARDS to the Minister for the Environment:**

I refer to the minister's decision to appoint Mr Trevor Richardson, chief of Bushmills Timber, to her interim forest advisory committee.

- (1) Is the minister aware that Mr Richardson has threatened to mount a campaign to unseat National Party members of Parliament at the next election?
- (2) Was Mr Richardson's appointment a reward for threatening to get rid of her coalition partners?

**Mrs EDWARDES replied:**

- (1)-(2) No.

#### DRUG COURTS

**977. Mr BAKER to the minister representing the Attorney General:**

Can the minister provide this House with a brief progress report concerning the establishment of drug courts in Western Australia?

**Mr PRINCE replied:**

I thank the member for some notice of this question. Diversion of drug offenders to compulsory treatment currently is part of a comprehensive range of options within the system. It involves graduate levels of intervention appropriate to the offence and offender. The Western Australian drug feasibility study was commissioned by the Minister for Justice and the WA Drug Abuse Strategy Office. It reviewed the operation of drug courts in other jurisdictions, consulted with people who had an interest in the area, developed a model for a pilot drug court and, following further consultation, made a series of recommendations for the piloting of a drug court in this State. Drug courts differ from other diversionary programs, such as the court diversion service, to the extent that a judicial authority is used in the direction of the supervision of a defendant's performance in treatment rehabilitation. The ministerial council on drug abuse strategies has indicated its support for the establishment of a drug court for more serious offences as proposed by the feasibility study and has requested the preparation of a plan for the implementation of a drug court pilot. From memory, that was about two months ago. Currently, work is being undertaken to identify the characteristics of the offender who is most likely to benefit from the drug court program. The Attorney General and the minister responsible for the drug abuse strategy will be developing the proposal for consideration by the cabinet law and order subcommittee with a view to a submission being made to Cabinet shortly. I expect that will be within the next eight weeks.

#### REGIONAL FOREST AGREEMENT, ADDITIONAL RESERVES

**978. Dr GALLOP to the Premier:**

I refer the Premier to the confusing and contradictory statements being made within the coalition, both in Western Australia and at the federal level, about the regional forest agreement and extra reserves in Western Australia. Is the Government of Western Australia moving to add to the reserves created under the regional forest agreement? If it is, what steps are being taken towards that end?

**Mr COURT replied:**

The Government has already agreed to a regional forest agreement and it is now in the process of implementing a regional forest agreement. That is not confusion; that is fact, it is happening. What is fraudulent about the Labor Party's position on this matter is that it is -

Dr Gallop: Answer the question. The people of Western Australian deserve an answer.

Mr COURT: I will answer the question. We have spelt out in detail a reserve design system - a sustainable yield position - and we have spelt out the effect that will have on employment in different areas. We have also spelt out what we will do to assist with the restructuring required. The Labor Party came out with a glib statement about its policy but refuses to tell anyone what it will mean to that industry. It is undermining the confidence of the whole industry but refuses to spell out what its policy means. Even one of the Labor Party's own members, the member for Eyre, stated -

I am extremely concerned at the potential job losses involved in the complete cessation of logging in native forests as advocated by the Australian Labor Party Environment Committee. . . .

I don't believe that we should go down the path of displacing so many people -

Mr Graham: That is not our policy.

Mr COURT: What is the Labor Party's policy now?

Mr Graham: You know very well what our policy is.

Mr COURT: What is it now? This is 9 June. Is this current?

Several members interjected.

Mr COURT: The member for Eyre stated -

I don't believe that we should go down the path of displacing so many people from work without very specific plans for alternative employment.

It would not just be employees in the so-called timber towns that would be affected.

Service towns like Bunbury would be adversely affected as well.

It is many months since the Opposition announced a policy and it refuses to tell people -

Several members interjected.

Mr COURT: The members opposite cannot have it both ways. Yes, we have come out with a detailed policy. Yes, we have been prepared to allow independent assessment of reserve designs and the yields associated with them. The members opposite are not even prepared to have the decency to tell the industry what effect it will have.

The SPEAKER: That is the end of question time. We had 18 questions plus five supplementaries in 35 minutes, which is a record and an improvement on yesterday.

Dr Gallop: That is on the assumption that they answered the questions.

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