WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

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LEGISLATIVE ASSEMBLY

Thursday, 5 September 1996

Legislative Assembly

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

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Report on Select Committee on Procedure Report Tabling

MR BLOFFWITCH (Geraldton) [10.03 am]: I present for tabling the report of the Joint Standing Committee on Delegated Legislation which contains its response to the latest report of the Legislative Assembly Select Committee on Procedure. I move -

That the report do lie upon the Table and be printed.

The report makes three points on clauses 11, 12 and 18. The committee does not agree that regulations that are laid on the Table and are not dealt with in this House should go forward to the next session. We prefer the method that is used in the Legislative Council; that is, if those regulations are not dealt with in the session, they are automatically rescinded.

In our deliberation on clause 18, we considered whether the Standing Committee on Uniform Legislation and Intergovernmental Agreements should be combined with the Joint Standing Committee on Delegated Legislation as one looks at delegated legislation and the other at subsidiary legislation. The committee felt it might be more appropriate for a new committee to consider both delegated and subsidiary legislation.

This report is a fairly comprehensive one, and I do not think it will cause a lot of pain. The report merely suggests a methodology to deal with some of the recommendations in the report of the Select Committee on Procedure.

Question put and passed.

[See paper No 475.]

MINISTERIAL STATEMENT - MINISTER FOR POLICE

Argyle Diamonds Affair, Australian Federal Police Report Tabling

MR WIESE (Wagin - Minister for Police) [10.07 am] - by leave: Two weeks ago I made a statement in this Parliament in which I advised it was my intention to table the Australian Federal Police report into the Argyle Diamonds matters as soon as I had advice from the Solicitor General that I was able to do so. Today I intend to carry through on that pledge, and I will be seeking the authority of the House to table and publish that document.

In addition to that pledge, I also indicated that those officers who have been adversely mentioned in the report would be provided with a copy of the relevant passages in it. Those persons were advised that it was intended that the report be tabled and that they would be given an opportunity to respond prior to the tabling of that report.

The Solicitor General has advised me that it is not necessary to follow this course as all persons against whom adverse findings have been made have been given the opportunity to respond to the issues and matters raised prior to the report being finalised. In his view the processes to ensure natural justice and procedural fairness have been fulfilled as part of the inquiry process.

The Solicitor General has recommended that the report be tabled in Parliament, subject to the qualification that appendices 6 and 7 not be included. Appendix 6 consists of unsubstantiated and untested allegations made by Lindsay Gordon Roddan. The Solicitor General has advised me that the allegations are highly defamatory and highly questionable. The Solicitor General believes it would be quite unfair to publish them under the protection of parliamentary privilege.

Appendix 7 is a chronology of events which, in some parts, contains allegations that are untested and are set out uncritically. He has advised that it would not be practical to edit out the damaging sections as to do so would destroy the integrity of the chronology. Again, the Solicitor General believes it would be unfair for these allegations to be published under the protection of parliamentary privilege.

Much has been said by the Opposition and the media about this report and the events leading up to its preparation. I would like to make clear the events that led to this final chapter in the Argyle saga.

There is no doubt that the history of the investigation into the theft of diamonds from the Argyle diamond mine is embarrassing to the Western Australia Police Service. This report shows quite clearly that the investigations and the management of these investigations was at the very least inadequate, ineffective and deficient. However, no fresh evidence of corruption or criminality was discovered.

There were three police investigations into the theft of diamonds. The first, which commenced in late 1989, was written off with no charges resulting. The second, which commenced in February 1992, was eventually written off with a finding that there was no evidence of diamonds having been stolen from Argyle. Some time later, the officer responsible for that second investigation was charged in connection with that investigation. Those charges, which relate to perverting the course of justice, are currently before the courts. The third police investigation, which commenced in early 1993, resulted in three people being charged and convicted of diamond related thefts.

In May 1995, subsequent to the third investigation, the ABC "Four Corners" current affairs program ran a story relating to the ongoing problems associated with the police investigation into the theft of Argyle diamonds, alleging serious misconduct, criminality and corruption by officers of the Police Service.

As a result, Forensic Behavioural Investigative Services International Pty Ltd offered its services to Argyle Diamonds and Argyle subsequently contracted FBIS to examine Argyle security and the previous police investigations. After an initial assessment, FBIS advised the Commissioner of Police that serious allegations of corruption and misconduct had been made. Under the weight of those serious allegations, the commissioner believed it was his duty as the person with the responsibility for the control, management and discipline of the Police Service, to assist FBIS with its further assessment. This was conditional upon FBIS supplying the commissioner with a copy of its final assessment. The commissioner appointed a liaison officer of the WA Police Service internal affairs unit to provide a link between the WA Police Service and FBIS.

I make it quite clear that the FBIS assessment report was privately commissioned and paid for by Argyle Diamonds for and on behalf of that business entity. As the owner of the report, Argyle has advised that it does not intend to release the report publicly. FBIS provided separate assessment reports to Argyle and the Commissioner of Police. The FBIS assessment report identified a list of issues that needed investigation.

The commissioner, having examined the FBIS assessment report, decided to seek assistance from the Australian Federal Police to investigate fully the range of issues raised in the FBIS report. AFP Commissioner Palmer agreed to provide officers who were appointed as special constables to the WA Police Service and seconded to the internal affairs unit. The AFP investigation, under the management of then Commander and now Assistant Commissioner Bill Stoll, commenced in late September 1995. Members will see that the report examines, investigates and discusses item by item each of the concerns raised in the FBIS report. The report then provides conclusions in respect of each matter.

The report I intend to table today is what I would call the fourth investigation report into this whole sorry saga of the Police Service inquiries into the theft of Argyle diamonds. I hope that the actions taken as a result of the AFP report will finalise this unfortunate and untidy blot on the history of Western Australia and the Police Service.

As I have said, the majority of this report provides evidence of breaches of proper investigative practices and procedures, as well as inadequate investigation management, rather than deliberate cover up or corruption. I am pleased that the Commissioner of Police and his senior management team have already addressed many of the deficiencies highlighted in the report and have shown very clearly a determination to ensure that those problems will not occur again in the future. The mere fact that the commissioner sought investigators from the police is a clear indication of the change of direction that has been brought to the Police Service and the determination that this Police Service is committed to a policy of being open and accountable to the people of Western Australia.

The process of change within the WA Police Service, known as the Delta Program, had its birthplace in my office in December 1993. It did not take me or the Government long to realise that there were serious inadequacies in the way in which the WA Police Force, as it was called then, was being managed. The management style and policing practices prevailing at that time, combined with the serious lack of appropriate resources, resulted in a police service desperately in need of change - change from a force to a service; change that is both radical and profound.

With the assistance of outside consultants and a dedicated team from the Police Service, plans were put in place to make the WA Police Service the best in Australia, if not the world. This process received a significant boost with the appointment of Commissioner Falconer and his new management team. Together they have initiated the most far reaching changes in the history of the WA Police Service. This process is ongoing. It is aimed at assisting and supporting police officers to deliver the level of service the community needs and has a right to expect.

This dynamic process of change was highlighted recently in a national Morgan Gallup poll, which gave a rating of professions for honesty and ethics for police services across Australia. The shining light in the poll was the WA

Police Service, which was the only service in Australia to show a positive result - with a 14 per cent increase over the past 12 months - highlighting a growing public confidence in our service. The reason I have referred to this change process is that this affair may never have reached this conclusion if these changes had not been made to the WA Police Service. Argyle Diamonds recently publicly acknowledged these changes and this new direction in a statement, which read in part -

> It is a matter of public record that Argyle was very concerned by the lack of response from the Western Australia Police Force in the matter of the organised theft of diamonds from the Argyle mine.
>
> Argyle was very pleased when Mr Falconer came on board and was prepared the tackle the matter.
>
> We recognise that the co-operation of Mr Falconer was instrumental in the company finally achieving a satisfactory outcome.

I have no personal satisfaction in being the Minister responsible for tabling this report because I believe this episode should never have happened. Perhaps if the WA Police Service at that time had been better resourced and more effectively managed, and if the Government of the day had been prepared to ask hard questions of police management during that period, a more satisfactory outcome would have resulted. This report is an indictment of a system that failed. However, a very positive note can be expressed today; that is, those changes that I have previously mentioned as being desperately needed, have been put in place. The safety and security of the people of this State is dependent upon the continued implementation of that transformation process. I table the report.

[See paper No 476.]

Mr WIESE: I move-

> That the paper be printed

MR CATANIA (Balcatta) [10.20 am]: After listening to the Minister's comments I ask the question which all Western Australians should be asking: Has the Minister in tabling the report met his obligation to, first, the public of Western Australia and, second, this Parliament? His 13-page statement on the tabling of this Australian Federal Police report is par for the course for the Minister; that is, it contains nothing at all. It gives the Western Australian public and this Parliament no accountability regarding the Police Service's actions in the Argyle Diamonds matter. Of the 13 pages of the statement, seven refer to the report and the balance commends the Commissioner of Police and the Police Service of this State. What a load of codswallop!

The second page of the statement outlines that the police officers were given the opportunity to respond to the issues. However, I have been told by various police officers that they were given scant details in reference to their part in Argyle. They consider that what they were given was absolutely flawed, and they were given seven days to make a response. That is what the Minister calls natural justice! What a load of tripe and bulldust!

Point number two in the Minister's statement was that appendices 6 and 7 will not be tabled. Can the Minister tell the Chamber and the public of Western Australia whether, if those appendices will not be tabled, they contain anything relating to criminal activity or corruption? We do not need the detail. The Minister could have given us a little information, some indication, about what was in the appendices.

Point number three in the Minister's statement was that this is the final chapter. With $80m worth of diamonds stolen, criminal charges pending, people in gaol and officers to answer allegations we are told that this is the final chapter! The Minister lives not only in the dark, but also the Dark Ages. He does not know what his service is doing. I am surprised that the Premier keeps him as the Police Minister, one of the most important portfolios in government, as the Minister has demonstrated that he knows nothing about it.

Mr Wiese: Will you answer a question?

Mr CATANIA: I will not. I will treat the Minister with the same contempt with which he has treated this Chamber! The Minister said that the first and second reports were aborted. If so, was any criminal activity associated with them? Did the Minister make a statement in that regard? The Minister also stated that the third report was aborted. Did the Minister know that the officers who conducted that third report are now facing internal charges? That report was the catalyst by which criminal charges were laid. The reaction of the department to criminal charges being laid by virtue of the good work of these officers was to charge the officers!

Let us move on to one of the most important parts of this statement. The ABC television report was the catalyst for the employment of FBIS. Who was on the ABC report? It is the officer who is being charged; namely, Senior Sergeant Robin Thoy. He was on the "Four Corners" program which prompted the employment of FBIS, the Minister

stated. The investigating officers who did something to bring out the truth in the Argyle saga are being charged by the Minister's department, and the Minister says that that is fine.

Let us have another look at FBIS's involvement, as this is one of the worms in this saga. The Minister should have advised the Chamber about whether FBIS contacted the Argyle people on the basis that the investigating company had been assured that all police files would be available to it. Why not give the Chamber that information? Why not advise the people of Western Australia of the truth? If FBIS had not had the files available to it, would it have been appointed by Argyle? Why not give us that information? The Minister stated that the FBIS report indicated serious allegations of corruption and misconduct. Which report is correct; is it the Federal Police report or the FBIS report?

Mr Wiese: Again, you will see that when you read the report.

Mr CATANIA: Why did the Minister not make immediate comment in that regard to give us his view? Does the report say that the FBIS report is flawed? Which one does the Minister think is correct? Which one does the Commissioner of Police think is correct?

The Opposition has asked the Minister questions about the number of reports which FBISwrote as a result of the inquiry, and the Minister stated that the police agreed to cooperate with FBIS, and that this cooperation was conditional on the company providing the commissioner with a copy of its final assessment. Page seven of the Minister's statement states that FBIS provided separate assessment reports to Argyle and to the Commissioner of Police. Why did the Minister not say that when he was asked in this Chamber? Why did he not tell us the truth and say there were three separate reports?

Mr Wiese: I have not said there were three separate reports. I said there were not.

Mr CATANIA: Is there any report other than the one which was given to Argyle? Is there a report, part report or separate chapter - whatever one may call it - formulated by the FBIS which, in confidence, outlines criminality in the Police Service? Is there a report on the former Deputy Commissioner of Police, Mr Ayton? Were two separate reports given to the Commissioner of Police? Why are they not mentioned in the Minister’s address?

Mr Wiese: It is all in the FBIS report.

Mr CATANIA: Does the FBIS report state that there are separate reports?

Mr Wiese: There are not.

Mr CATANIA: Let us not use semantics. Do not deceive us. If the Minister does not know, his department is deceiving him. Who is being deceptive?

Is there a report specifically for Argyle Diamonds? Is there a report dealing with incompetence and possible criminality in the Police Service? Is there a report on the role of the Deputy Commissioner of Police in this saga? Is there a separate chapter which was given to the Commissioner of Police?

Mr Wiese: All those questions have been answered in the Parliament. Your problem is that you do not listen.

Mr CATANIA: Is the Minister saying yes or no?

Mr Court: We have fixed one of the problems you gave us.

Mr CATANIA: I cannot believe it! There is the little wimpy Premier holding the hand of his incompetent Minister.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Order! The member will resume his seat. I ask him not to use that language. I do not think it helps the debate.

Mr CATANIA: Thank you, Mr Speaker. I will not use that language but it was appropriate, seeing them sitting there holding hands. If the Minister wants to reveal to the Western Australian public the truth about this sorry Argyle Diamonds saga, as he calls it, why not give us all the information? Obviously we accept some of that information.

Mr Cowan: You have done nothing but whinge for the last three and a half years.

Mr CATANIA: The Deputy Premier must stop dripping. Why does the Minister not give us the whole sorry saga about Argyle?

Several members interjected.

The SPEAKER: Order!

Mr CATANIA: I am glad to see the National Party stick together. It has all its troops in the Chamber surrounding the poor little Minister for Police.

Mr Cowan: How is your level of support going?

Mr CATANIA: My level of support?

Several members interjected.

The SPEAKER: Order!

Mr CATANIA: The Police Service, as the Minister wishes to call it, has obviously received separate reports of possible criminality and incompetence in the Police Service. The Minister stated that Argyle Diamonds will not make public its report, which is fair enough; we agree with that. However, I believe there are separate reports by virtue of the Minister's admission. If there are, why have they not been tabled? We have paid for them by offering FBIS the services of a police officer, opening up the files of the Police Service and offering its employees accommodation and full cooperation. I think that gives us every right of access to those two reports. Frankly, I would be surprised if the Minister did not know about the reports. However, if he does not know about them, he is being deceived by his department. Can he honestly come here and say that he does not know of any separate comments?

Mr Wiese: Is this another attack on the Commissioner of Police?

Mr CATANIA: I am attacking the Minister's incompetence. If two separate reports exist and the Minister has been told that no report exists other than the one given to Argyle Diamonds, the Minister has been deceived. If the person or persons who are deceiving the Minister form part of the Police Service, I am criticising them because they should have given the report to the Minister and the Minister should be making the report available to this Chamber and to the people of Western Australia. They want to know if there is any criminality or incompetence in the Police Service and the role that the former Deputy Commissioner played in the Argyle Diamonds saga. If the Minister is not prepared to make that report available to this Chamber, the Minister is deceiving this Parliament and the people of Western Australia.

Mr Wiese interjected.

Mr CATANIA: Worse than that, by allowing the Police Service to keep that information under wraps, the Minister is damaging the reputation of the Police Service. Its morale, which is already low, will sink further into the mire as a result of the Minister's actions. The Minister's own police officers want the information revealed, because they want those people exposed.

Mr Wiese interjected.

Mr CATANIA: The public wants that information revealed. If there is any incompetence or criminality, police officers want to make sure the people concerned are brought to book so that other reputations can be cleared. If the Minister does not know of it, he gladly sits in ignorance, saying he knows nothing about it so that he cannot tell a furphy, as he put it. All we have is this address, which tells us nothing. The Minister's statement in tabling this report is seven pages of nothing, apart from praising the Police Service and its restructuring through the Delta program. The Minister has told us nothing, which is par for the course for the Minister because he never gives this Chamber any worthwhile information that helps the Police Service. He never knows what is going on. He is quite happy being blissfully ignorant of what is happening all around him. The tabling of this report is significant in that it reflects the Minister's performance throughout the past three and a half years as Minister for Police.

Mr Wiese: How many pages are there in that report?

Mr CATANIA: I have just received it. The number of pages do not matter; I am looking at the Minister's statement.

Mr Wiese interjected.

The SPEAKER: Order! Minister!

Mr CATANIA: In conclusion, a number of questions remain even with the tabling of the report. The original report by FBIS was the catalyst for employing the Australian Federal Police. Which of the reports was flawed? I have information that both reports refer to the laws of Victoria rather than to the appropriate legislation here in Western Australia. I have been given information by members of the Police Service that the report is vitally flawed, that the AFP examined only part of the FBIS report, and that of all the officers named in the original report only four were questioned by the Federal Police. The Federal Police did not seek the information available to it so that it could bring down an informed report on this Argyle saga. Questions still remain. When will this House and the public of

Western Australia receive the complete information regarding examination of the Police Service and its part in the Argyle saga? When will it receive information about the criminality and incompetence which FBIS stated existed in the Police Force. If there is no criminality and incompetence and the Minister believes the Australian Federal Police, will he state that? Can we know which report and which assessment of the saga is correct - that of FBIS or that of the AFP? Will the Minister inform the people of Western Australia and this Chamber how many reports were commissioned by the Commissioner of Police? Are there separate reports? If there are, why does he not table them? It would be appropriate. It is the only way he will clear the name of the Police Service of Western Australia.

Question put and passed.

MOTION - STANDING ORDERS SUSPENSION

Select Committee on Real Estate and Business Agents Act, Appointment

DR GALLOP (Victoria Park - Deputy Leader of the Opposition) [10.40 am]: I move -

> That so much of the standing orders be suspended as is necessary to enable consideration forthwith of the following motion -
>
> > That this House appoint a select committee to inquire into and report on the circumstances surrounding the removal of section 61A of the Real Estate and Business Agents Act; in particular -
> >
> > (1) why this was done despite its having passed through Parliament and the Executive Council;
> >
> > (2) whether the Minister for Fair Trading is truthful in her denial that the removal had anything to do with a threatened $1m campaign by the real estate industry; and
> >
> > (3) whether the removal was in accordance with any existing law and convention.

I have moved to suspend standing orders because this issue is of fundamental importance to our system of government. It is rare that members of Parliament move to suspend standing orders to set up a select committee of this sort. However, the circumstances surrounding this case are of such importance that they threaten three important principles in our system. The first is the relationship that exists between the Parliament and the Executive, and how the process of legislation will be conducted in this State. In other words, we are not dealing with a normal issue; we are dealing with the heart of the legislative process. The second important principle is the way this State is governed and whether all citizens have equal power and influence in their dealings with the Government or whether some people in the State have privileged positions because of their ability to fund expensive political campaigns. That is a fundamental issue that goes to the heart of what government means in Western Australia today. The third important principle deals with ministerial standards and whether the Minister for Fair Trading has been truthful in the way she has dealt with this matter. The importance of these principles has led the Opposition to move to suspend standing orders to debate the motion to set up a select committee.

The Government's decision to deproclaim section 61A of the Real Estate and Business Agents Act was an unprecedented move in Western Australian history. We have already seen an extraordinary event unfold over the past three years; that is, the failure of the Government and the failure of the very same Minister, when Attorney General, to proclaim the political donations legislation, which would have required all candidates and parties to declare their political donations in all the by-elections that have occurred since the 1993 state election. The Parliament decided in 1992 to pass legislation and that legislation has not even come into operation.

In this case, legislation passed through the Parliament, went to the Executive Council, and was signed off by the Executive Council. The executive arm of government then decided that one part of that legislation would not be proclaimed and went back to Executive Council and deproclaimed that clause. The precedent has been set already with the executive arm of government choosing which legislation it will proclaim and which legislation it will not proclaim. However, it is now also choosing which parts of legislation it will proclaim and which parts it might deproclaim if it is found to be inconvenient because of circumstances at the time. That precedent has frightening consequences - I stress those words - for our system of government in Western Australia. It is incumbent upon the Parliament to consider this matter very seriously.

One of our senior political commentators, David Black, the most knowledgable political scientist in Western Australia on our political history, said that Parliament should inquire into the consequences of this decision because of the precedent it sets. Let us remind ourselves of what could happen under the process that this Government has endorsed through its actions. A minority Government, which we had in 1992 and which we may have again, and we may have a Parliament in which the upper House is dominated by minor parties -

The SPEAKER: Order! The Deputy Leader of the Opposition has spoken for six minutes. I remind him of the need not to anticipate the debate that will occur if this motion is successful. I ask him to tie his comments more closely with the motion to suspend standing orders.

Dr GALLOP: The essential argument is this: We should suspend the standing orders of this House to deal with an issue that represents a major threat to this Parliament. When our Parliament is threatened by the Executive we should act immediately to defend its privileges and it rights.

Mr Bloffwitch: It should be done during private members' business.

Dr GALLOP: It should be done immediately; none of this private members' nonsense. This issue goes to the heart of Parliament.

What are the consequences? A future minority Government could have legislation imposed upon it by the Parliament. However, if it did not like that legislation, because it is the Government it could decide under this precedent to proclaim some of the legislation but not proclaim other parts of it. What happens to government in this State if that happens? What happens to the rights of Parliament in this State? The only way we can deal with this issue is as a Parliament. The first thing we can do is suspend standing orders to allow the issue to be canvassed in full.

The Government of Western Australia has made the Executive Council a new battleground for politics. It has sent a message to the community that if it does not like legislation passed by the Parliament, that is not the end of it. It can have a chat to the Governor and the Minister and get the Minister to deproclaim or not proclaim the legislation. What sort of precedent sets up the Executive Council as a third tier of government in Western Australia? That precedent is frightening for our Parliament's rights and privileges. That is why the matter must dealt with.

Another issue of great importance that justifies the Opposition's taking this extraordinary step to suspend standing orders is that the citizens of Western Australia must be assured that the Government of Western Australia is being conducted on the basis of equality for all citizens. We agree to do that when we come into the Parliament. The Criminal Justice Commission in Queensland is currently inquiring into whether government is being conducted freely, openly and fairly for all citizens in that State. This campaign to ignore the Parliament and to get the Executive Council and the Governor to reverse a decision made by this Parliament is being conducted by the real estate industry and is backed by the executive arm of government.

I appeal to members of the National Party for their support on this issue. Historically, the National Party has been a defender of the rights of Parliament. I recall the many speeches made by the former member for Stirling in which he defended the rights of Parliament. I have heard the member for Avon give his high principled speeches on the importance of the Parliament in relation to the Executive. I have also heard the Leader of the National Party give many speeches in which he defended the rights of the Parliament in relation to the Executive. The member for Avon has a duty to support this suspension motion, given the numerous arguments he has put to this Parliament about the rights of the Parliament. He tells us he is an independent member because he does not follow the party line and, first and foremost, he supports the rights of the Parliament. I will look to the member for Avon for his support for this motion because it will demonstrate his support for the parliamentary process.

One issue remains to be dealt with; that is, the claim of ministerial impropriety or the claim of whether a Minister tells the truth. Unlike the Government, which came into this place with a censure motion against two members of Parliament without setting up any processes by which they could defend their position, the only way to deal with this issue is to have a parliamentary committee of inquiry into it. The Minister for Fair Trading said that the threat of a $1m campaign in marginal seats had nothing to do with the Government's decision to deproclaim this legislation. The truthfulness of that Minister is a matter which should be determined in relation to this issue. It is best examined by a parliamentary inquiry.

The media has already judged the Minister on this issue in an article in this morning's *The West Australian* entitled "Law axed after threat". The media is saying that the Minister for Fair Trading is a liar. The media is saying that the Minister is telling a bald lie when she said that the threat had no connection with the decision to deproclaim a section of the Real Estate and Business Agents Act.

Points of Order

Mr COWAN : I take this point of order knowing that the Deputy Leader of the Opposition has sought, as much as he possibly can, to qualify the way in which the term "lie" is used. I still see it as unparliamentary and I demand that he withdraw it.

The SPEAKER : I have a problem in that I did not hear any remarks relating to the word "lie". It is obvious to members that I was talking to the Clerk at the time. I ask the Deputy Leader of the Opposition to give some sort of confirmation on this matter.

Mr GRAHAM : I simply make the point that the norm in this place is that if somebody says someone told a lie, that person is asked to withdraw it; and that is what should happen. However, that is not what the Leader of the Opposition said. He said that he media is saying that this person told a lie. He was quoting the media and in that case it is perfectly admissible.

The SPEAKER: I ask the Deputy Leader of the Opposition whether he made an accusation to the effect that the Minister was telling lies, is lying or has lied.

Dr GALLOP : The issue at stake is whether the Minister is truthful in regard to her claim that a threatened $1m campaign by the real estate industry had nothing to do with the decision to deproclaim a section of an Act. I said the media has already judged the Minister. The Parliament must exercise its judgment by setting up a select committee to look into the matter. I did not claim that the Minister had lied; I said the media have certainly reached that conclusion.

The SPEAKER: Order! I accept the explanation by the Deputy Leader of the Opposition that he did not accuse the Minister of having lied and in that circumstance I ask him to continue.

Debate Resumed

Dr GALLOP: The media have judged the Minister for Fair Trading and it is time for the Parliament to make its judgment. It is very important that Ministers tell the truth about what goes on within their portfolios. It is very important that they give an honest and frank answer to questions about why Governments do things. It is at the heart of ministerial responsibility. If they do not do that, we cannot work on the basis of trust, which is the basis of the parliamentary system.

I did not allege that the Minister for Fair Trading told an untruth; I am putting forward the proposition to this Parliament that it should determine whether she did. The approach I have adopted to this question is different from the howling and gutter tactics used by the Government yesterday. It did not even have the decency to put the question on the agenda; it came in here and used its numbers. The Opposition is saying that members need to look at the evidence and put it to a parliamentary inquiry.

The Opposition has moved to suspend standing orders to debate this issue because of its importance. It is not a normal issue. It is an issue that goes to the heart of parliamentary government and really deals with whether the executive arm of government and the Executive Council become the legislators in this State. If they do, every member of this Parliament should be extremely concerned about what has happened in the last few weeks.

MR CATANIA (Balcatta) [10.56 am]: As the Deputy Leader of the Opposition explained, the action taken by the Government to deproclaim a very important amendment to the Real Estate and Business Agents Act is unprecedented. Apart from the importance of section 61A of that Act, the Government has not taken into account the recommendations of the Royal Commission into Commercial Activities of Government and Other Matters pertaining to the role of the Executive in the parliamentary process.

Section 61A prevents real estate agents from charging tenants a one-off letting fee. The reason the Government has deproclaimed this section is not out of concern for the industry or the tenants. The reason can be revealed from a letter sent by the Real Estate Institute of Western Australia to the Premier.

The SPEAKER: Order! I ask the member for Eyre to move because he is contravening standing orders. He cannot stand in that place. My predecessor would have blasted the daylights out of him. I am not doing that, but am asking the member to move from the position he is in and perhaps his colleague will speak to him behind the Chair. It is out of order for a member to stand between the Speaker and the member on his feet.

Mr CATANIA: The letter was sent to the Premier on 9 August and it reads in part -

> Accordingly, real estate agents are now expecting further broad-based definitive political action by the Institute to overturn a legislative measure which is iniquitous and unduly intrusive, and which would have a devastating financial effect on small business operators in the real estate sector; and to that end our members have instructed us to establish a $1m fighting fund within the industry, and to also involve private property owners in the campaign.
>
> Your own understanding of the matter is welcomed; and I shall now look forward to discussing the matter further with you and the Fair Trading Minister within the next two weeks, as you agreed during our meeting.

That was last week, which is approximately the time the Executive made this decision. A similar letter, giving an explanation in greater depth of the effect on the industry, was sent to the Minister for Fair Trading on 9 August, the same day that decision was made. That letter explains the effect on agents of removing the letting fee. It states -

> Insofar as membership reaction to that issue is concerned though, I would remind you of our meeting in your Parliament House office on Thursday 21st March, when I explained to you the enormous financial implications of the proscription, with small to medium sized agencies, with a rent roll of between 200 and 250 properties, standing to lose between $15,000 and $20,000 a year. Larger rent rolls, of between 500 and 600 properties would stand to lose approximately $50,000 a year. I suggested to you that our members would not take that sort of loss quietly; and that the Institute was finding it difficult to constrain its membership's reaction.

That is the reason that the Government made those changes. The letter also states -

> The widespread resentment and antagonism, caused by your Government's proposed proscription on tenants' contributions to letting fees, has now been explained to the Premier in discussions I had with him yesterday. At the same time, I had to advise the Premier of a decision by the Institute's Policy Advisory Group . . .

Members should note the words, "I had to advise the Premier". I want this Chamber to recall the Premier's answer to the Leader of the Opposition's question yesterday. He asked whether the Premier had been advised by the Real Estate Institute of Western Australia that a $1m fighting fund had been established by the real estate industry to protect the agents' business.

The Premier stated that he had not been advised of this. This letter states categorically -

> . . . I had to advise the Premier of a decision by the Institute's Policy Advisory Group that a $1M fighting fund be established by the real estate industry to protect agents' business interests . . .

The Premier was told that on 8 August. Yesterday the Premier denied being advised by the institute that if he did not deproclaim this Act, it would establish a fighting fund of $1m and take political action. I do not know what I can say. Mr Acting Speaker (Mr Johnson), can I say it was an untruth? It is my view that what the Premier said was a blatant lie. I cannot make any other judgment.

Withdrawal of Remark

Mr COWAN: That is not something that can be said. The member for Balcatta knows it and I demand that he withdraw it.

Mr CATANIA: I withdraw, but I can make no other conclusion.

Mr COWAN: The member for Balcatta knows that he must withdraw without equivocation.

Mr CATANIA: I withdraw.

Debate Resumed

Mr CATANIA: Yesterday at question time the Premier was asked whether he had been advised by the Real Estate Institute of WA that a $1m fighting fund would be established by the institute for a political fight if his Government did not deproclaim the Real Estate Legislation Amendment Act and suspend section 61A of the Real Estate and Business Agents Act. The Premier stated that he had not been advised of that by the institute. A letter to the Minister for Fair Trading, Hon Cheryl Edwardes, on 9 August states -

> . . . I had to advise the Premier of a decision by the Institute's Policy Advisory Group that a $1M fighting fund be established by the real estate industry to protect agents' business interests in the face of the Government measures, such as the letting fees' proscription.

I do not know what to call that. The institute has stated in writing that it advised the Premier. The Premier stated in this House that the institute had not advised him. I do not know how to describe the Premier's reaction. Is it parliamentary to say that is an untruth, or a deception?

The ACTING SPEAKER (Mr Johnson): If the member for Balcatta is looking for some direction, I will be happy to assist him.

Mr CATANIA: Can you direct me, Mr Acting Speaker? Did the Premier deceive Parliament?

The ACTING SPEAKER: Order! The member has asked for my direction, and I am happy to provide it; however, he should not interrupt while I am speaking. The member for Balcatta can say that he believes somebody has been untruthful; that is not unparliamentary

Mr CATANIA: I believe that yesterday the Premier of this State was untruthful. He deceived this House when he said the reason that the Government is deproclaiming the Act is to benefit the industry. The reason that the Government deproclaimed the Act -

Several members interjected.

The ACTING SPEAKER: Order! Members are getting out of hand now.

Mr Brown: Look over there.

The ACTING SPEAKER: I said "members", plural.

Mr Brown: You were looking over here.

The ACTING SPEAKER: That was because the member for Morley was looking at me. The member for Morley may have been anticipating what I would say. The member on his feet has every right to be heard, and it is not appropriate for members on either side of the House to argue and shout while the member is on his feet.

Mr CATANIA: I believe that yesterday the Premier told an untruth. I believe that yesterday the Premier deceived this House, the industry and the public of Western Australia. I believe the unprecedented decision by the Executive to suspend section 61A of the Act was for purely political reasons. The decision was not made for the benefit of the real estate industry or the tenants; it was made for the benefit of the Liberal Party of Western Australia and this Government. The Liberal Party did not want a $1m fighting fund to be directed against its candidates in marginal seats, so it made that decision to deproclaim section 61A of the Act.

Yesterday the Premier told this Chamber that he was not aware of that advice from the real estate industry. The Premier indicated that advice about the fighting fund was not the reason that section was suspended. The Minister for Fair Trading and the Premier of this State have a lot to answer for. They have both been parties to telling this Chamber an untruth. They have not been honest in answering questions. They have been dishonest in telling us the reason that the Government suspended that section of the Act.

The Real Estate Institute confirms in this letter of 9 August to the Minister for Fair Trading that on 8 August it advised the Premier about the fighting fund and the sort of the action the industry would take. I believe all members would be asked to contribute $1 500 to that fighting fund. The industry wanted to ensure that money talked. It advised the Premier and the Minister for Fair Trading, who had promised them, even though the Act had been proclaimed, that she would bring the matter to the party room. She did that, and the party room again rejected it. It said, "No the Act has been proclaimed."

The ACTING SPEAKER: Order! I will follow the line of the Speaker when he cautioned the previous speaker. The motion is to suspend standing orders. The member for Balcatta is talking to the substantive motion. I caution the member to keep that in mind.

Mr CATANIA: I will return to the motion. The circumstances are so important that we should go down the path suggested by this motion.

A section has been removed from the Act. The reasons given for that action were obviously untrue, and that untruth was told by the Premier of this State. He was supported by the Minister for Fair Trading, who is responsible for the legislation. That warrants the action called for in this motion. It is one of the most important motions put before this House in many a day. We should examine the reasons that section 61A of the Real Estate and Business Agents Act was deproclaimed.

The Opposition could accept and have sympathy for the change if it were the cause of hardship to a large section of the population, even though the action would still be suspicious. However, it is clear that the Premier, with the assistance of the Minister for Fair Trading, has acted on a political basis to deproclaim that section. It was not done for economic or benevolent reasons, but merely because the Liberal Party was afraid of the consequences if it did not remove that section. Such action warrants the formation of a select committee to investigate the reasons for the removal of that section, and the manner and circumstances in which it was done.

MR C.J. BARNETT (Cottesloe - Leader of the House) [11.12 am]: The Government does not support the suspension of standing orders. However, it has allowed two speakers from the Opposition to present their case. The former Attorney General and current Minister for Fair Trading is unfortunately not in the Chamber. She is making her way to the House and no doubt will be able to answer questions on this matter in question time.

The Opposition had a choice today; it had the opportunity of submitting a matter of public interest to debate this issue, and that would be the appropriate course of action. However, it chose a suspension of standing orders as the vehicle for the debate. If the Opposition is serious about this issue, it can submit an MPI on this subject this afternoon and the matter can be debated when the Minister for Fair Trading is in this Chamber.

The Opposition has that opportunity. Indeed, if it wishes to put the motion on the Notice Paper, the matter can be debated in private members' time next week because none of these changes will come into effect until 1 January. The Government does not support the suspension of standing orders and, since the Minister is not available at the moment, it cannot proceed with the debate at this stage.

MR COURT (Nedlands - Premier) [11.13 am]: Yesterday in question time the Leader of the Opposition asked me questions about meetings, dates and correspondence.

Mr McGinty: You were less than truthful, I might add.

Mr COURT: In what way? I said yesterday I would get the information and give it to the Leader of the Opposition.

Mr McGinty: The Premier said that the real estate industry had not launched a $1m campaign.

Mr COURT: That is right. The material that I said yesterday I would provide to the Leader of the Opposition will be provided to him today.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Mr Graham	Mr McGinty
Mr Bridge	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mrs Henderson	Mrs Roberts
Dr Constable	Mr Kobelke	Dr Watson
Dr Edwards	Mr Leahy	Ms Warnock *(Teller)*
Dr Gallop		

Noes (26)

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

Pairs

Mr D.L. Smith	Mr Bradshaw
Mr Cunningham	Mr Ainsworth
Mr M. Barnett	Mr W. Smith
Mr Thomas	Mr Strickland
Mr Marlborough	Mrs Edwardes

Question thus negatived.

MENTAL HEALTH BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [11.20 am]: I move -

That the Bill be now read a second time.

The Mental Health Bill represents the culmination of several years work within the Health Department and is a response to a process of review of the Mental Health Act 1962 stretching back over 15 years. Recent major contributors to the review process included the members of the mental health task force established by Mr Graham Kierath. The task force provided an avenue for a broad range of views to be expressed and culminated in the excellent report released in March 1996. Simultaneously the Health Department produced the State mental health

plan. The task force report and the state mental health plan both highlighted the need for legislative reform in the mental health area. That this Bill has been introduced late in this term of government is a reflection of the level of consultation which has taken place and the complexity of the issues in this area. The Bill is drafted in 10 parts as follows:

Part 1 establishes the definitions and objectives of the Bill. The objectives reflect the United Nations' principles for the protection of persons with mental illness and the national mental health statement of rights and responsibilities, principles which have informed the Bill generally. The definition of mental illness provided is the definition used by the United Nations working party on mental health.

Part 2 sets out the administrative provisions for the Bill. It establishes the functions of the Minister and the chief psychiatrist and provides for a register of psychiatrists, authorised medical practitioners and authorised mental health practitioners. Provision is also made for the authorisation of hospitals and for the establishment and functions of a registrar of the Mental Health Review Board. The functions of the Minister include promoting the development and coordination of services for the care and treatment of persons who have mental illness, and the development of voluntary and self-help groups and other agencies for assisting persons who have mental illnesses and their families.

Other important functions of the Minister are to ensure that the special needs and views of groups within the community are sought by consultation with particular reference to persons who have or have had mental illnesses, community groups, and ethnic groups and to encourage the development of advocacy services to facilitate the works of the Mental Health Review Board and the Council of Official Visitors.

Under division 2 of part 2 of the Bill the chief psychiatrist is given responsibility for the welfare of involuntary patients, and commensurate power to investigate complaints about the care of involuntary patients. The chief psychiatrist is also given the power to investigate complaints or concerns with respect to voluntary patients.

Part 3 governs involuntary patients, detention in an authorised hospital, and treatment of involuntary patients in the community. The central clause in part 3 is clause 26. Clause 26 sets out the criteria upon which a decision is to be made about whether a person should become an involuntary patient. The criteria in clause 26 must be met before a person can be made an involuntary patient.

Part 3 provides the mechanism by which persons suspected of having a mental illness may be referred to a psychiatrist either in the community or at an authorised hospital. If a person is referred to a psychiatrist at an authorised hospital, the person may be received and detained at the hospital for up to 24 hours and must be seen within that time by a psychiatrist. If a person is seen by a psychiatrist in the community that psychiatrist may order the person's receival and detention in an authorised hospital for a period not exceeding 72 hours. The psychiatrist who examines the person at the authorised hospital may order the admission of the person for a period not exceeding 28 days, order that the person be observed for a further period not exceeding 72 hours from the time of arrival, or make no order, in which case the person may leave. Although a person may be detained at an authorised hospital, a person is not admitted involuntarily to an authorised hospital until a psychiatric examination establishes that the clause 26 criteria have been satisfied and the appropriate order is made.

If a decision is made by a psychiatrist to make a person an involuntary patient the Bill provides that the psychiatrist is obliged to consider whether the person could be more appropriately treated in the community before ordering admission to the authorised hospital.

The Bill introduces community treatment orders to Western Australia. Community treatment orders will allow some involuntary patients to remain in the community, and be treated in the community under a treatment plan. The Bill also establishes a mechanism for monitoring persons on community treatment orders. The Bill requires that the status of all persons who are involuntary patients be reviewed at intervals of not more than six months, and also allows for the release of involuntary status at any time.

Part 4 is about interstate movements and is consistent with the Australian Health Ministers' advisory council guidelines prepared in relation to this area.

Part 5 governs the treatment of patients. Under the Bill certain treatments - deep sleep therapy and insulin coma or sub coma therapy - will be prohibited. Certain other treatments will require the informed consent of the patient and, with respect to psychosurgery, the approval of the Mental Health Review Board. Other forms of treatment can be administered without a patient's consent, but only in an emergency or where the patient is an involuntary patient. Except in an emergency electroconvulsive therapy can be performed only with the patient's informed consent or, if the patient is an involuntary patient, following agreement by two psychiatrists. There are mechanisms in the treatment provisions to safeguard the rights of patients. These mechanisms include obtaining the opinion of another psychiatrist and seeking the involvement of the chief psychiatrist. The treatment provisions also include provisions for emergency treatment seclusion and mechanical bodily restraint.

Part 6 establishes the Mental Health Review Board. The Mental Health Review Board will be constituted by a lawyer, a psychiatrist, a community member and, in cases of psychosurgery, a neurosurgeon. The Mental Health Review Board will be an independent review body. It will review the admission of all involuntary patients, whether those persons are detained in a hospital or are in the community, as soon as practicable and in any event not later than eight weeks after their admission to involuntary status, and, if they are still involuntary patients, every six months thereafter. In addition persons may appeal to the Mental Health Review Board at any time about matters pertaining to their detention or involuntary status.

Part 7 provides for the statutory protection of patients. The Bill provides for patients admitted to authorised hospitals to be given an explanation of their rights and entitlements, both orally and in writing. Patients will also have the right to an interview with a psychiatrist, and subject to exceptions in particular circumstances, the right to retain personal possessions, receive and send correspondence, have access to a telephone, and visitors of their choosing.

The Bill also introduces in part 7 the innovative concept of allowing the possibility of second opinions sought by patients to be by way of audio visual means; that is, teleconferencing. This will facilitate the timely review of patients who are in remote areas.

Part 8 relates to community support services, and gives the Commission of Health the power to allocate funds for community support services, and the power to enter into funding and services agreements with a person or body for the provision of community support services.

Part 9 establishes the Council of Official Visitors. Visitors are not required to have any particular experience or qualifications, but will receive training in their functions which will include visiting authorised hospitals at least once a month, visiting other facilities upon the direction of the Minister and to advocate on behalf of affected persons, as defined. Visitors will assist affected persons with the making of applications or appeals. The Council of Official Visitors will report to Parliament each year, and is to give the public access to its records after removal of identifying information from those records.

Part 10 contains miscellaneous provisions, which include the powers of the police when apprehending a person suspected of having a mental illness, provisions relating to the establishment of inquiries, restrictions on practitioners in certain circumstances, and other matters, including regulation power. In relation to the powers of police, this Bill is designed to ensure that once persons suspected of having a mental illness are apprehended by the police they are to be taken as soon as practicable for examination by designated persons. It is appropriate that the police take into account all available knowledge in approaching a person who may have a mental illness, and police may involve a mental health expert. It is intended that there be a clear education program and training for all relevant personnel including the police and that existing protocols between the Health Department and the Police Service on working arrangements be reviewed and expanded to address all operational issues associated with the new Bill.

In summary, the Bill is a balanced piece of legislation sought by consumers of mental health services and the community in general. It responds to the demands of the public for greater protection of persons who have mental illness, and represents significant progress in mental health in Western Australia. I commend this Bill to the House.

Debate adjourned, on motion by Ms Warnock.

MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [11.28 am]: I move -

That the Bill be now read a second time.

This Bill contains the provisions that are consequential to the Mental Health Bill 1996 and the Criminal Law (Mentally Impaired Defendants) Bill 1996, which I will refer to as the new legislation. Generally these provisions provide for the transition from the current Mental Health Act 1962 and other legislation which deals with or refers to mentally ill or mentally impaired persons, to the new legislation and the amendments necessary to make other existing laws consistent with the new legislation.

The transitional arrangements are set out in part 12 and follow the clause repealing the Mental Health Act 1962. The general principle that applies in each case is that a person is to be put in a corresponding position under the new legislation. Wherever a review is required to be carried out in relation to a person's status under the new legislation and there is doubt as to the time within which it is to be carried out, the review is to be carried out within the time specified or as soon as is practicable. The other provisions in that part continue existing licences or approvals and the status of approved hospitals, and enable persons who are currently registered as psychiatrists to continue as psychiatrists for the purposes of the new legislation.

The other provisions either correct existing references to the Mental Health Act 1962 or provide substantive changes to existing laws. The most significant of the latter are the proposals to bring the licensing of private psychiatric hostels under the licensing provisions of the Hospitals and Health Services Act 1962 so that a single set of administrative regulatory provisions will apply to both hospitals and private psychiatric hostels. This will also rationalise the resources required for regulation in this area.

Other substantive amendments are effected to the Bail Act 1982, the Criminal Code, the Electoral Act 1907, the Guardianship and Administration Act 1990, the Justices Act 1902 and the Sentence Administration Act 1995. Amendments have been made to the Criminal Code to reflect the change to the term "mental impairment". Mental illness for the purposes of the code has been defined in the terms adopted by the High Court in R v Falconer. Another substantial change is the adoption of the recommendation in the Murray review of the Criminal Code to restrict the scope of the unfitness to plead provisions to those defendants with a mental impairment. Defendants who for some other reason are unable or unwilling to plead will be presumed to have pleaded not guilty. The other amendments to the Criminal Code and the other Acts are required because those Acts have been affected by the schemes contained in the other Bills. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

CRIMINAL LAW (MENTALLY IMPAIRED DEFENDANTS) BILL

Second Reading

MR PRINCE (Albany - Minister for Health) [11.31 am]: I move -

That the Bill be now read a second time.

The Criminal Law (Mentally Impaired Defendants) Bill together with the Mental Health Bill and the Mental Health (Consequential Provisions) Bill implement the Government's commitment to improving and modernising the law relating to the treatment of people with a mental impairment who are charged with a criminal offence, including those defendants with a mental illness. The criminal law does not deal with people who have a mental illness as a separate category from those people who are mentally impaired for some other reason. The Bill does not seek to change this approach. Rather it consolidates and modernises the criminal law relating to all mentally impaired defendants.

It has been recognised for many years that this area of law has been in need of modernisation and clarification. The substantive criminal law which applies to mentally impaired defendants has not been amended since the Criminal Code was enacted in 1913. The Mental Health Act 1962, which provides the procedure for dealing with people held at the Governor's pleasure due to a mental illness, reflects community views from over 35 years ago. This Bill reflects the views contained in a number of reports published on these areas of law since 1983 when the general review of the Criminal Code prepared by the now Mr Justice Murray was published. This Bill has been based on a review of all relevant reports. Through this legislation and other initiatives the Government remains committed to the paramount goal of a safe and secure environment for all Western Australians while ensuring that all participants in the criminal justice system are treated fairly and equitably and the process itself is cost efficient and effective. In accordance with these goals the Government has maintained the view that the Governor in Executive Council is the appropriate body to be responsible for the ultimate release from custody of mentally impaired defendants who have been violent or caused property damage. However, the Bill provides that it is the role of the courts to determine first whether in all the circumstances of the case the defendant should be made the subject of a custody order. Where the offence is of a minor nature the defendant will be discharged either unconditionally or conditionally by the courts. Thus, this Bill shares the same three goals as the broader criminal justice system. These are to protect the public, to ensure the fair treatment of those involved in the criminal justice process and to minimise the incidence of personal and property violence in the community.

The Government accepts that there must be modification to the criminal justice system to accommodate factors specific to mentally impaired defendants. The main factor to recognise is that mentally impaired defendants are not criminally responsible for their acts and omissions. Consequently, although it may be necessary to protect themselves or the community from them if they are violent, that should occur in a proper context.

The Criminal Law (Mentally Impaired Defendants) Bill contains provisions that apply to mentally impaired defendants from when they are first charged with an offence through to their ultimate release from a custody order. Mental impairment is defined to be intellectual disability, mental illness, brain damage or senility. Mental illness is defined according to the interpretation given to those words in the criminal law context by the High Court in R v Falconer. These definitions replace the old fashioned and vague terms of mental disease and natural mental infirmity that are currently used in the Western Australia Criminal Code. The Bill makes it clear that the term "mental illness" has a different meaning in the criminal law from the meaning used in the Mental Health Bill 1996.

The Bill empowers any judicial officer who has denied bail to a defendant who appears to have a serious mental illness to remand him or her to an approved hospital for the purpose of a psychiatric examination. There are two criticisms of the current law which the Bill seeks to overcome. First, the Mental Health Act 1962 provides that courts of summary jurisdiction have the power to remand defendants for such a reason but does not expressly empower any other courts to do likewise.

Secondly, that Act provides that a defendant may be remanded for up to 28 days. It has become routine for justices to remand for the full 28 days whether or not this is fair to the defendant or necessary for completion of the required assessment. The Bill provides that any judicial officer who refuses bail may make a hospital order but that its duration is limited to seven days. These powers are in addition to the powers of judicial officers to grant bail on condition that the defendant undergo psychiatric or other appropriate expert assessment or treatment.

The Bill then deals with mental unfitness to stand trial, both in the summary and superior courts. Currently there is no statutory expression of a summary court's power to find mentally impaired defendants not fit to stand trial. Neither are there provisions for a procedure to make such a determination in a summary court or provisions for determining how defendants should be disposed of if found to be unfit to stand trial by a summary court. The Bill remedies these omissions.

The Bill provides a list of the appropriate criteria for determining whether a defendant is not mentally fit to stand trial. It then provides that the question of fitness may be raised at anytime before a defendant is convicted or acquitted of an offence.

Consistent with the recommendations of the Murray review of the Criminal Code and the WA Law Reform Commission's report on the criminal process and people suffering from mental disorder, the question of whether a defendant is fit to stand trial is made a question for the presiding judicial officer. Currently a jury determines the question.

Summary courts are given the power to release unconditionally a defendant found unfit to stand trial for a simple offence and who is either never likely to be fit to stand trial or after six months has not become fit to stand trial. As the now Mr Justice Murray commented in his review, " . . . the seriousness of the offence does not warrant further effort or interference with the defendant in the context of the criminal law". However, the Bill recognises that some defendants, even though charged only with a simple offence, may be a danger to themselves or the community. In these cases summary courts are given the power to make a custody order in relation to the defendant. Before making a custody order a court must be of the opinion that a custody order is appropriate having regard to the strength of the case against the defendant, the circumstances of the commission of the offence, matters personal to the defendant, and the public interest. The custody order will ensure that the defendant is kept in custody until it is appropriate that he or she is released by the Governor in Executive Council.

Superior courts have similar powers and restrictions. However, whereas a defendant released under this Bill by a summary court will not be able to be recharged with the same offence, in accordance with the traditional approach, a defendant released by a superior court may be reindicted.

The Bill then provides for the procedure for dealing with defendants acquitted on account of unsoundness of mind. The substantive law relating to the defence of unsoundness of mind will remain in the WA Criminal Code. Currently, unsoundness of mind at the time of the commission of the acts constituting an offence may be raised in both summary and superior courts. In the summary courts there is no power to take a special verdict and so any defendant found not guilty by reason of unsoundness of mind would have to be released unconditionally. This is unsatisfactory from the community's standpoint because it fails to make allowance for the protection of the community or the treatment of the person charged. In superior courts a special verdict must be taken and this results in all those defendants being kept for an indeterminate time at Her Majesty's pleasure in either strict or safe custody. This is unsatisfactory. The aim of this Bill is to consolidate, modernise and streamline these procedures.

Summary courts are given the power to release those defendants either conditionally or unconditionally. Further, on the same criteria for the making of a custody order for a person found unfit to stand trial, a summary court may make a custody order in relation to a defendant found not guilty by reason of unsoundness of mind.

Superior courts have the same powers except that in the case of serious indictable offences involving violence or damage to property, a superior court is required to make a custody order. The much criticised concept of "strict or safe custody" has been abolished because it is a distinction which is not based on any firm principle. The Bill will enable the place and extent of mentally impaired defendants' custody to be determined according to their particular characteristics and needs. These provisions ensure that the Government's goals of protection of the public, fair treatment of mentally impaired defendants and minimisation of violence in the community are met.

Defendants who are subject to a custody order under the Bill are called mentally impaired defendants. The Bill will establish the Mentally Impaired Defendants Review Board which will be responsible for making decisions about the place of custody of a mentally impaired defendant, determining the details of leave of absences if permitted by the Governor in Executive Council and making recommendations to the Minister about the timing of the release of a mentally impaired defendant. The Governor in Executive Council may release a mentally impaired defendant from a custody order either unconditionally or on any conditions, including conditions relating to treatment, training, residence and supervision.

It is the Government's intention that the board will play an extremely important role in all matters relating to mentally impaired defendants and plans for their release. For the first time in Western Australia, mentally impaired defendants will have one body supervising their custody and plans for their release. To ensure that the board conforms with the Government's commitment to the introduction of cost effective and efficient processes, it will use some of the expertise and administrative support of the existing Parole Board. The chairperson of the Parole Board will be the chairperson of the Mentally Impaired Defendants Review Board, and the three lay members of the Parole Board who are appointed by the Governor will also be members of the Mentally Impaired Defendants Review Board. In addition, the board will have a psychiatrist and psychologist as members. This Bill is significant because for the first time all provisions which relate to the procedures for dealing with mentally impaired defendants are contained in one piece of modern and easily understood legislation. I commend the Bill to the House.

Debate adjourned, on motion by Ms Warnock.

RESERVES BILL

Second Reading

Resumed from 4 September.

MR OMODEI (Warren - Minister for Local Government) [11.42 am]: I rise to make some comments on this Bill and to indicate my support, particularly for clause 10, which concerns reserve No 36996 in D'Entrecasteaux National Park, which is in my electorate. The Bill proposes to excise 368 hectares from that national park, and the company which is seeking a mining licence in that area, Cable Sands (WA) Pty Ltd, will transfer to the national park an area in excess of 1 000 ha.

This is an important and sensitive area of my electorate. It contains the sensitive Gingilup-Jasper wetlands system. The main lake in that area is, of course, Lake Jasper, which comprises about 440 ha. It also has Lake Quitjup, known by the locals as Lake Quilajup, which comprises about 70 ha; Lake Wilson, which comprises 20 ha; and Lake Smith, which comprises 30 ha; and a number of swamps comprising about 80 ha. The area is well known by the locals as a recreation area, and that has probably been a well kept secret for quite some time. The area has environmental importance, and some significant Aboriginal artefacts have also been found.

I indicate my support for the excision, because it appears to me that the Opposition is playing politics with this issue by expressing its opposition. I remind members opposite about the conflict of resolution policy that they adopted when they were in government. That policy provided clearly that in recognition of the high mineral sands potential of the existing and proposed national park, exploration would be allowed to continue for three years, and after this period no more than 1 per cent of the total land area would be excised from the park and additional land would be incorporated into the park. The Government intends to proceed down that path.

Mr Kobelke: Be truthful; there are also other conditions.

Mr OMODEI: If the member will let me speak, he will find out a bit more about this issue.

The Lake Jasper area has been used by the locals for many years. It is certainly a favourite marroning spot. Water skiing is also a favourite pastime, and hang-gliding with the aid of speedboats has taken place on that lake for many years. A pastoral lease is adjacent to Lake Jasper, and when the water level drops, some fencing can be seen from time to time. The vast majority of Lake Jasper is in a pristine state. It is a very delicate hydrological area, because the lake and the surrounding area are fed by underground water.

I support this excision, because it will allow for the proper assessment of the area. Mining will not take place in this area until all the proper environmental concerns have been addressed, particularly from the point of view of hydrological studies; and that was mentioned in the other House. At the same time, before mining takes place, the issues with regard to the Aboriginal Heritage Act, the Native Title Act, the Mining Act and the Environmental Protection Act must be considered. There has been some comment about the possible impact of mining on that lake. We will not know about that until all the proper studies have been undertaken. I understand that the Commonwealth Scientific and Industrial Research Organisation has been involved in those studies.

With regard to the depth of the water in Lake Jasper, I know from experience, having visited the area on a number of occasions, that the water depth varies, depending upon the season, and only two seasons ago would have been down about a metre. I understand that the depth of the lake alters by about two metres, from 8.2 m to 10.3 m, from time to time. That is the historical data that has come forward.

For a number of years, going back to 1988, the Western Australian Museum has conducted some significant archaeological studies in that area. I can recall that a team of five divers, headed by Charlie Dorch from the Museum, dived into Lake Jasper in 1990 and found some quite significant Aboriginal artefacts. It is a significant area from an historic and archaeological perspective.

In recent times, the Manjimup Aboriginal Corporation, and in particular Glen Kelly, the coordinator of the cultural heritage unit, who is of Aboriginal descent - he and his family are close friends of mine - has been heavily involved in assessing the historic aspects of Lake Jasper. He has stated in a letter that the Aboriginal community is opposed to mining in that area, partly from the perspective of the study that needs to take place, and partly from the historic and Aboriginal perspective. The corporation has a number of concerns. It believes that the lake and the associated sites present a visible link with the past; the lake contains a great deal of information about pre-European history; and it is tied to the land, for which Aboriginal people feel a deep association through their custodial responsibilities. It is very concerned about may happen in that area.

The first concern that was raised with me about Lake Jasper came not from environmentalists or Aborigines but from people who own the land adjacent and who were concerned that research or exploratory drilling might lead to some problems with the lake. I have spoken to my parliamentary colleagues who represent that area - Hon Bill Stretch, Hon Muriel Patterson and Hon Barry House. I make it clear to the House that the Government will monitor closely the progress of this excision and any further developments.

Mr Kobelke: We have trouble getting you to monitor matters that come under your own portfolio responsibilities.

Mr OMODEI: That is an insult. Again, the member does not know what he is talking about. When he made his contribution to the debate the other day he said that he viewed the area from a distance. I presume he flew over the top of it, or nearby.

Mr Kobelke: I walked in the bushland near it. I was taken by the mining company to look at the area.

Mr OMODEI: The member saw it through the bush? The concerns in the region are from people adjacent to the area. No-one in that area wants to damage this important wetland. I will ensure either through Cabinet or through the party room, and in conjunction with the Minister for the Environment, that all environmental concerns for future development are addressed. It must be remembered that there was some haste by the previous Government to put in place the conflict of resolution mechanism. It is easy to be wise in hindsight. However, that Government should have conducted a comprehensive assessment of the whole of D'Entrecasteaux National Park to establish the whereabouts, if any, of any mineral deposits. They should have been excised from the area before it was declared a national park.

Mr Kobelke: Who should have done that?

Mr OMODEI: The former Government.

Mr Kobelke: The Department of Minerals and Energy?

Mr OMODEI: It should have been done by the Government, whether that was through the Department of Minerals and Energy or the former department of mines. That would have been a mammoth task; however, I have no doubt that further deposits of minerals will be found in that locality. BHP has had its share of problems at the Beenup site where it has had to address issues relating to sulphide in the soil and also the possible discharge of water into the Blackwood River. I am pleased it has addressed those matters and is containing its waters on the site.

I raised those matters, and Lake Jasper, with the Minister for the Environment months ago. Deposits have been identified adjacent to the Blackwood River in an area known as location I. That is a pre-1899 location where the mineral deposits are part and parcel of the ownership of the land. I wanted to ensure that all the studies on the excision of this area and the inclusion of the land by Cable Sands (WA) Pty Ltd were properly completed. I note with interest that the Minister in the other place, Hon Norman Moore, gave an unequivocal commitment that mining would not proceed unless the most stringent environmental requirements were attached to it. Any concerns by members opposite can be readily allayed by the fact that this information will be made available publicly.

This Bill is about the excision of the land and a land transfer. The issues of mining and other matters will be addressed under the other legislation I mentioned; namely, the Aboriginal Heritage Act, the Native Title Act, the Mining Act and the Environmental Protection Act. Mining in the south west area, particularly at Jangardup No 1,

has provided huge infrastructure through roads and access routes. The owner of the property at Jangardup No 1, Alf Matthews, whom I know well, is satisfied with the mining that is taking place there.

Mr Kobelke: Is that on his land?

Mr OMODEI: Yes. When the mining is completed he will have a better property than he started with. He will have a lake. The restructuring of the soil by the company will mean that his land will have better water retention. So far it looks as though it will be a successful mining operation. The Kemp family, the owners of the land at Jangardup South, which is the area that will be considered once this legislation is passed, cleared that land in the 1970s. There were a range of crown releases in that area. A significant potato growing effort is going on in the Lake Jasper-Scott River area at the moment - 15 000 tonnes this year, growing to 30 000 tonnes next year. There will be proper infrastructure through the introduction of BHP and Cable Sands into the area, although some gravel roads must still be fixed. There will be a productive horticulture industry in that area. That region is a sensitive wetland area and all the proper environmental controls must be put in place to ensure that the operations are carried out to the expectations of the broader community.

Dr Turnbull: Will the mineral area encroach on Lake Jasper?

Mr OMODEI: The area is not far from Lake Jasper.

Dr Turnbull: How far?

Mr OMODEI: I am told that it is between 300 and 500 metres. However, the important factor is that a small part of that area goes into the national park; hence the proposal for the excision. From the local community's perspective, from the local Aborigines' perspective, and from my point of view as the local member it is important that the proper hydrological studies are done and the proper environmental controls are put in place before any decision is made to mine the area.

MR D.L. SMITH (Mitchell) [11.56 am]: I will speak on three clauses in this Bill. The first is clause 7, which deals with the excision of Bunbury lot 759, coloured blue, from class A reserve 15927. This is an area of about half an acre in old terms, or 1 985 square metres, and sits between Cobblestone Drive and the foreshore of the Leschenault Inlet in the Queen's Gardens area of Bunbury. It is an area of land that has long been occupied by the Bunbury Rowing Club. Apart from providing for rowers, the Bunbury Rowing Club has probably been the most famous dance hall in Bunbury. Most people of my age would regard it as a large part of their social life and of their youth. Some of the best times of their youth would have been spent in that hall.

Like many organisations in Bunbury, the club is strong. It has the resources to redevelop its premises and again make it the social centre of Bunbury. There is also talk of other clubs around Bunbury combining with it and pooling their financial resources to provide a good centre on the land, both socially and for their own club purposes. The object of this excision is to enable a grant to be made in trust to that club for rowing club purposes.

I am not sure that a grant in trust is exactly what the club needs. The nature of its proposals for the property are such that the club will require substantial bank borrowings. Trusts for any purposes are always a problem for borrowing. If the club wanted to dispose of the premises for any reason, there would be the question of whether that was possible - it would require government permission - and what the implications of the trust would be. That is, how much money must go back to the State? That uncertainty about how much money must go back to the State to remove the trust at the time of disposal creates the problems for the banks. For that reason I ask whether a trust of any kind is appropriate.

I also want to know exactly what is meant by the expression "trust for the purpose of rowing club premises". Will it enable the club to do what it has done for years; that is, to lease out its premises to others to utilise it for social functions and weddings and the like? Will it enable the club to hold daily and weekly functions and entertainment on the premises? At what stage can we say that the substantial purpose is that of a function centre or social centre, rather than rowing club premises? In his explanation I ask the Minister to make it absolutely clear that the nature of the rowing club premises is such that the club will not be constrained in using the premises either for itself or by inviting other clubs around Bunbury to join with it at the premises. More people than just the rowing club members might want to use the premises as though they were their own. Just what are the limitations involved in its being a grant in trust for rowing club purposes? What activities will not be allowed to be carried on within the premises?

Mr Kierath: It was at the request of the rowing club that this change has happened. We are not trying to impose anything on it. It can get a mortgage upgraded as a result of this. That is the only reason we are doing this.

Mr D.L. SMITH: I would not have objected because the Government seems to have ensured that the foreshore area is not part of the grant.

Mr Kierath: It actually has to have a lease with the local council.

Mr D.L. SMITH: The excised area does not include the foreshore itself; therefore, there will be no problem with members of the public moving through it. I would not have objected if this clause provided for a freehold grant to the rowing club because it would have removed all the constraints. I just want to be sure that in the movement from the current arrangements to the trust none of the current purposes for which the premises are being used, or any that existed 25 years ago, is lost.

Mr Kierath: We don't want to go to freehold because they will be able to sell it later to anybody. We want that foreshore to remain in public hands. There is a problem getting this out of freehold and back to the Crown. That is why we won't freehold it. They can do anything they want to do from these arrangements, but ultimately the Crown still has a say in the disposal of the site to some other developer of the club's choice.

Mr D.L. SMITH: Had it been a matter of the foreshore, I would have opposed totally the question of freehold. Because it does not include the foreshore, I do not have a problem. The rowing club is an organisation that can be trusted. It will always be part of the Bunbury community and it will always occupy these premises, irrespective of whether it is a grant in freehold or a grant in trust. It will not affect the kind of premises the club develops. It may affect the financing of those premises and the timeliness with which it can be done. It may also prevent complications if it wants to combine with another club. If another club wants to move premises, and has resources that it wants to combine with the rowing club to develop something really outstanding, especially something that fitted in with -

Mr Kierath: We would not stand in the way. If it is going to be around forever, the whole matter is academic. The problem occurs only if for some reason it falls over in the future. We say that it is there for the purpose of rowing, but we have some control over it if it is freehold. If it falls over, it can be sold to someone else for related purposes.

Mr D.L. SMITH: Subject to zoning.

Mr Kierath: Under this provision we are saying it is okay for that purpose. If the club wants to change it, it can always come back to us and we have some say in it. We have some control so that it does not go off to another type of development. That is why we do not want it to go to freehold.

Mr D.L. SMITH: The difference between you and me is that I trust the club implicitly. I have every confidence the club will continue in perpetuity and it will never want to shift. My understanding is that if a charitable organisation - whether it be a rowing club, a church or an agricultural society - builds a substantial asset on a trust property, inevitably when it comes to the end of the time that it wants to use that property, the Government can strike a deal: The land will be freeholded; the Government takes a cut and the organisation takes a cut.

Mr Kierath: I was not involved in any of the negotiations. This Bill was in the other place before I was appointed Minister for Lands.

Mr D.L. SMITH: I appreciate that. I want to raise another aspect about the nature of these grants and the adverse impact on the city of Bunbury. In my dealings with the Bunbury City Council as a former Minister for Lands and a former Minister for the South-West there was an absolute commitment that a number of titles to be conveyed to the city of Bunbury for properties that passed into its possession or control either in the previous five years or prospectively in the next five years would be granted for freehold purposes. It concerns me that I am getting information from the city of Bunbury that a number of properties that I understood would go to it on a freehold basis were not transferred that way, at least on the basis of a grant in trust. A number seem to have been left in leasehold or on the basis of vesting in a reserve.

Mr Kierath: Why don't you come and talk to me about it?

Mr D.L. SMITH: I certainly will. Only last Monday I had a meeting with the council about other matters that it wanted to raise, and it raised this matter with me. The council identified a number of the properties that I always understood were to be transferred in freehold as part of the council's cooperation for participating in the Bunbury-Harbour City project and various redevelopments that have occurred. I will cite just one; that is, the swap with the City of Bunbury which bought the old convent premises that have been used as an art gallery. Part of the deal was that a transfer would be made to the council of what is known as Bicentennial Square. My understanding was that that square and the old railway station and the like were to be vested as freehold in the City of Bunbury. If there is any suggestion that that is not to occur, it would worry me. There is also an area at the intersection of the entrance to the inlet at the town end -

Mr Kierath: If you have a case for any of those issues, please come and talk to me. I am not aware of this information, but I will get it and discuss it with you.

Mr D.L. SMITH: I am pleased to hear that. I simply wanted to raise the issue as a general one, and to put the Minister on notice that, of his own volition and as a result of any meeting that I might have with him, I hope he will call for a report from the department. Perhaps the Minister can then meet with the City of Bunbury and discuss its concerns about this matter.

Mr Kierath: This is the first time I have heard about it. If you come and talk to me about it, I will get all the information and we can sit down and talk about it together.

Mr D.L. SMITH: I refer briefly to clause 8, which involves an area known as Wellington Location 5629. That area is vested in the Shire of Capel and is set apart for a travellers' stopping place and caravan park. It comprises 136.4378 hectares. The only impact of the change in this clause is to add a very small portion arising out of a road reserve. I hope not too many people around Bunbury read this, but that reserve is the best spider orchid patch in the Bunbury region. It has a whole range of spider orchids occurring in huge numbers. It also has an enormous number of other -

Mr Kierath: I wish I had known that last weekend.

Mr D.L. SMITH: I will not say how I know what a good area it is and talk about some of my misspent youth. However, it is still in almost pristine condition. Not only does it have a huge number of spider orchids, but it also has enamel orchids, donkey orchids and the more common species that are generally prolific in and around Bunbury. If I have people visiting me in the right season I take them to that area.

It worries me that the value of this area as a flora reserve has never been identified and that we are still referring to it as a travellers' stopping place and caravan park. It would be a great pity if a caravan park were to be built on the land. The reference to a travellers' stopping place is a historic carryover from the days when people travelled from Perth to Busselton by horse and carriage. It has never been used as a caravan park to the best of my knowledge or even as a camping ground. I encourage the Minister to have a survey of the property undertaken to establish whether it should be vested not as a travellers' stop and caravan park but as a flora reserve, or whether we should be thinking about vesting it in the Shire of Capel or somewhere else so that proper regard is given to its value as a flora reserve.

As far as it can, the Shire of Capel has done a very good job in preventing people getting into that area by motor bike or car. It has been able to do a fairly good job of protecting the flora reserve to date. Its retention should be primarily for that purpose and we should have its importance as a flora reserve acknowledged.

The other matter I will briefly discuss is the question of excision from the D'Entrecasteaux National Park and the possible exchange with Cable Sands of an area near Lake Jasper. The member for Warren has correctly identified that the previous Government's policy in relation to any possible mining in national parks provided that there would be an opportunity for exploration in the D'Entrecasteaux National Park. As a result of that exploration, we could identify mineral reserves and allow the exchange of a limited part of the D'Entrecasteaux National Park for freehold land that Cable Sands had at that time to allow mining to occur. I emphasise that, contrary to what the member for Warren said, there was certainly no anticipation that, regardless of which part of the park was chosen for mining, we would in any way agree to particular areas. It was a general provision to enable exploration and the explorers would be able to discuss with the Government whether particular areas could be excised and swapped.

It is well known that I have some reservations about the boundaries of the D'Entrecasteaux National Park, the quality of all of that land and its being retained as a national park. I have always been concerned that it occupies an area similar to that stretching from Bunbury to Augusta in terms of the coastline that it occupies. I have also been concerned about the effect of the creation of that park; that is, whether it would prevent any of that area being used in future for tourism and recreation areas. It is a huge area of coastline that could be a very important part of the future economy of the south west. I have always wanted that fact to be recognised when management plans have been developed for the park. I mention those matters not as a confession or to make myself a target of conservation groups that strongly hold a contrary view, but to point out that I do not approach the park with any sort of very green classification, although I am a lot greener now than I was when I first came to Parliament.

[Leave granted for the member's time to be extended.]

Mr D.L. SMITH: I have to be honest and say that if Cable Sands had wanted to choose an area I would most strongly object to for exchange, then unfortunately it has chosen it. Lake Jasper is the biggest freshwater lake in the south west. It contains a number of freshwater species that are now seldom found anywhere in that area. It is apparent that it was also a very important area for the south west Nyoongar community well before the arrival of the white man. A number of important archeological finds have been made in the surrounds of the lake and there appears to be even more significant areas in the lake itself. Added to that is the fact that the area is enormously complex in a hydrogeological sense. The member for Warren stated that the area from Augusta through to Scott River and into the park could have been a very important water and horticulture resource.

My experience has shown me that generally the nature of the region changes from summer to winter. In summer one can go there and think that it may be possible to use those areas for certain purposes. However, in winter, one almost needs a boat to get through the same areas. The interrelationship between the surface water and the subsurface water is a very complex matter on which the Department of Mines and the old Western Australian Water Authority have done an enormous amount of work. They have identified it as a very valuable future water resource. If the member for Kimberley were here I would tell him that, given the quantity of surface and subsurface water, it could well be the Lake Argyle of the south west. It has enormous potential as a water resource. However, the fact that not enough work is being done and that the area is very complex in a hydrogeological sense means that we cannot allow mining to take place within any reasonable proximity of Lake Jasper.

First, it would be impossible to identify the effects mining may have on the subsurface water and to understand the relationship to Lake Jasper. Secondly, from year to year, depending on how much rain we get and where it falls, the situation is enormously variable. The link between the various surface water areas is so complex in the very wet areas that we cannot have any confidence at all that mining can take place without adverse effects. No matter what the Department of Environmental Protection, the Department of Mines or the Water Corporation might think, it is an area where I, as a long term resident of the south west and as a person who has taken a substantial interest in the area, would have no confidence that mining could take place and not impact upon Lake Jasper. Whether it is simply a matter of interfering with the level of the lake, or, more importantly, whether it in any way involves any infiltration into the lake impacting on its purity or pristine nature, that should be of enormous concern to us.

We should bear in mind that mineral sands is a most valuable resource in the south west, and I have always been one of the industry's strongest supporters. This proposal is marginal and mineral sands occur in reasonable quantity throughout the south west. Therefore, it cannot be claimed that the value of the mining operation can be in any way balanced against the enormous value of Lake Jasper. For that reason, I absolutely oppose this excision and I oppose any suggestion that mining should take place in the areas proposed.

Even if my estimate of the value of Lake Jasper and the complexity of the area is wrong, we should certainly not proceed with the proposal in the manner suggested by the Government; that is, to do the excision and then to carry out the studies. Well before we think about the excision or land swap, the hydrological and anthropological work, an assessment of the flora and fauna as well as consideration of the its importance to the Nyoongah community should be researched in the most comprehensive and expansive way.

I was in the House for most of the time when the member for Maylands was speaking, and she gave a most comprehensive analysis of the area covering the detail of the matters I have raised. I urge the Government and the Minister to look carefully at the member's speech and to value the matters she raised. I do not come to the debate with the greenest of qualifications or as great supporter of the D'Entrecasteaux area and its upgrading from a nature and conservation reserve to a national park. However, even with my background, I am absolutely and vehemently opposed to this excision proposal. I very much fear that if we allow the mining to go ahead, we will do irreparable damage to the largest freshwater lake and the most important anthropological site in the south west. Also, we will doing this to an area whose flora and fauna and hydrology is grossly under studied.

The only people who access that area are those in four-wheel drive vehicles. There are large areas, not necessarily around Lake Jasper, but in the general national park, which have not been studied in any detail at all. I recommend to the Government that we should be developing as a high priority, comprehensive flora and fauna and geological research. D'Entrecasteaux National Park is an area of enormous diversity in land formation and flora and fauna, as has been established by the minimal research conducted. Research must be done before we make any decision about the management of the entire park, and certainly about any form of development within it.

I have reservations. Some areas in the park are not of high conservation importance, and I am the first to aknowledge that very little is known and written about the area. For this reason, an enormous amount of research work should be carried out before we make any changes to the park. Any decision must be made after full consultation with the entire Western Australian community, especially those in the south west. One could not have chosen a worst site in this park for this proposal. I fear that we will wreak havoc on the environment, the detail of which none of us knows, if mining takes place in that area.

MR KIERATH (Riverton - Minister for Lands) [12.26 pm]: I thank members for their comments, which I will cover as best I can. In relation to the last comment, and a number of other such comments, an apparent misunderstanding is that this Bill allows mining to proceed. In fact, it will simply excise the land so further testing and research can be done; it is not a decision to mine.

Mr Kobelke: Testing and research can be done without the excision.

Mr KIERATH: It cannot. I will come to that.

Many comments were made about the decision to mine, but that is made under other legislation, such as the Mining Act. Also, environmental assessment and Aboriginal heritage issues must be decided in other forums before the proposal proceeds.

Rather than taking points by individual members, I will refer to the clauses and accommodate members' comments in that way. The member for Nollamara raised the question of why it has taken so long for the matter to reach us. I do not have that answer. The Bill has been in the other House, and it has been dealt with as soon as possible upon reaching this House.

Clause 7 relates to the Bunbury Rowing Club. The member for Mitchell will be aware that its frontage is not direct to the high water mark. The rowing club wanted to change its land title so it could obtain a mortgage to help upgrade its existing facilities. It will be provided with a crown grant in trust, which will enable it to borrow money and develop. Earlier I had an interesting conservation with the member for Geraldton. We are trying to deal with an issue involving a crown grant in trust. A group sold land as though it was freehold land. It was not discovered until it went to get the zoning approval at local council that the crown grant in trust should have prevented the land being on-sold. In this case, it was on-sold.

Mr Lewis: There is something wrong with the register of title if that happened.

Mr KIERATH: It was a subsidiary title and its status did not show. We looked back to see if there was any liability by the party concerned. Nevertheless, it was auctioned and the transaction was settled. The reason that we use crown grant in trust, rather than freehold, is that if there is change, the Government of the day has some say. That is right and proper. I oppose freehold land at that foreshore. The amendment will enable the club to gain a lease with the City of Bunbury to gain access without jeopardising ownership issues. That clause originates from a request of the rowing club to facilitate its acquiring a mortgage to upgrade facilities, and it arises from an agreement between the two parties.

In regard to clause 10, this excision will not automatically lead to mining. Before any mining occurs, Cable Sands (WA) Pty Ltd must obtain all the necessary environmental approvals.

Native title and Aboriginal heritage issues will need consideration before approval for the mine is given. I ask members to try to understand this: The purpose of the excision is simply to provide some level of title security greater than that provided by the existing exploration licence. That security is required, given the high cost of evaluating deposits and preparing those environmental reports. The company is not prepared to go through those actions unless it has some surety that, if it meets all those other conditions, mining can proceed. This is one of the dilemmas that we face. Quite frankly, the Government does not spend the money on evaluating those deposits or developing the environmental reports, the company does. In taking that risk the company wants some surety that, providing it kicks the goals or meets all the requirements, it can succeed. I reiterate that, although the first stage is the issuing of the exploration licence, this is another stage and a lot more assessment must occur before any permission for mining is granted.

Among the points raised against this amendment was the fact that the Reserves Bill is an inappropriate place for such an amendment. The Reserves Bill specifically deals with amendments to A class reserves. It does not deal with land use and never has; it does not deal with land management, and I do not think it ever will; and it does not deal with the assessment procedures, which are dealt with in other legislation. Even when the land is excised, it still comes under the control of the Department of Conservation and Land Management, which will set in place all the conditions associated with it. The land is not being cut free because we still have those controls to deal with.

I will repeat part of the statement that Hon Norman Moore made in the other place. In a few parts of it important undertakings were given. The first was a report from the Commonwealth Scientific and Industrial Research Council relating to the hydrology of the Lake Jasper area and the likely impact of mining at Jangardup, south of the lake. That report will be laid before both Houses of Parliament. Therefore, there will be opportunities to debate that issue. The second was an environmental assessment of the proposal to mine in the area and a level of assessment considered appropriate by the Environmental Protection Authority and the Minister for the Environment. That would also be laid before both Houses. The third related to the ministerial conditions arising from the environmental assessment, including conditions that Nelson locations 13471, 13472, 13473, 13474, 7226 and 12897 be revegetated to acceptable native vegetation standards, which will allow those locations to be incorporated into the D'Entrecasteaux National Park at a later date.

I believe that, if those undertakings are carried out, and they have been promised and are binding, they should satisfy most of the concerns. In the event that mining cannot take place for environmental or any other reasons, the land excised from the national park will be re-included in it. Therefore, the use is specifically for that purpose and cannot be for any other. If the land is not suitable it will go back to the national park.

A member raised the issue of secondary processing. It is inappropriate in a situation where the commercial viability of deposits has yet to be determined. It is rather like putting the cart before the horse. Let us see if it is viable and, if it is, that is the time to impose additional requirements. This Government has always supported secondary processing in the development and agreement Acts for the north west, many of which had further processing requirements. Much of the secondary processing we are getting now has occurred only as a result of the requirements placed on mining in the first place. Our record in that area stands for itself.

I can sum up the whole of the argument on clause 10 by saying that it is like the chicken before the egg syndrome; one asks: which comes first? The studies cannot happen unless the land is excised so that there is some surety for the company and, of course, we do not want to give approvals unless those studies occur. This clause allows that to happen. Obviously we will be looking very closely at those studies. Mining will not proceed unless everyone is satisfied.

The member for Nollamara next raised clause 18. The Reserves Bill allows amendments only to A class reserves and does not deal with subsequent actions relating to the land. In this case, once the land has been excised from the A class reserve, the normal administrative actions will be undertaken by the Department of Land Administration, which will set aside the land as a reserve for landscape protection. The land will be vested in the City of Stirling. That cannot occur until this legislation is passed. One of the issues brought to my attention was that the original 1933 Land Act provided for C class reserves. The existing Land Act allows for only A and B class reserves and the "rest". The Land Administration Bill currently before the House allows for A class reserves and the "rest". This has been a natural evolution, as it were. That is why C class reserves were not included in the statement. The only other reserves referred to as C class were existing C class reserves which had been vested when the classification was being changed. None of those amendments puts anything into a C class reserve, because under the current Act that cannot happen. There are A and B and then the rest, if I may use that term.

Mr Kobelke: What mechanism is used to give it the gazetting we require?

Mr KIERATH: The Department of Land Administration has to -

Mr Kobelke: Not the removal from the A class reserve. I understand that. Once it has been removed, you are saying that giving it the status of a reserve is not done within the Reserves Bill.

Mr KIERATH: No, this happens under the Land Act. It basically says that it is reserved for other purposes and vested in the City of Stirling and designated as landscape protection. It does all of the things that the member wants, but none of that can happen unless the land is excised from the A class reserve.

Mr Kobelke: I understand that. I want to be sure we have a guarantee that the further steps will be carried through.

Mr KIERATH: We have that guarantee. The member for Mitchell aroused my interest. I will give him an undertaking to examine why the reserve is currently zoned as a travellers' stopping place and caravan park. I will investigate whether it can be classified as another reserve, but it will take some time to do so. I give the member for Mitchell the undertaking that I will pursue that and advise him at a future date. I thank the members for their comments and hope I have answered all their concerns.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Ms Warnock) in the Chair; Mr Kierath (Minister for Lands) in charge of the Bill.

Clauses 1 to 9 put and passed.

Clause 10: Reserve No. 36996 (D'Entrecasteaux National Park) -

Dr EDWARDS : I move -

Page 5, after line 5 - To insert the following subclauses -

(3) Subsections (1) and (2) come into operation on a date to be fixed by resolution of both Houses of Parliament.

(4) No motion for the resolution provided for in subsection (3) may be moved in either House before there is laid before it -

(a) a report from the CSIRO relating to the hydrology of the Lake Jasper area and the likely impact of mining at Jangardup South on this lake;

(b) an environmental assessment of the proposal to mine in this area at the level of an ERMP;

(c) the ministerial conditions arising from the ERMP including conditions that Nelson Locations 13471, 13472, 13473, 13474, 7226 and 12897 be revegetated to acceptable native vegetation standards which will allow those locations to be incorporated in the D'Entrecasteaux National Park at a later date; and

(d) a statement by the proponent outlining its commitments to secondary processing of the mineral sands mined.

Although we have heard statements from the Minister outlining the Government's commitments that effectively match some of the things in this Bill and we have heard him talk about how in his view excision will be followed by other steps before mining takes place, we should remember that we are in Parliament: This is the political forum of the State. People look to it for leadership and decision making. Unfortunately, under the Government, and particularly under the Environmental Protection Authority, excision equals mining. No less a person than the Chairman of the EPA has said that, with his reading of the Environmental Protection Act, the authority can never stop a proposal. We could have a separate argument about that. I think his reading of the Environmental Protection Act is wrong. Nevertheless, if he, as Chairman of the EPA, believes that is the instruction given to him, it leaves us in a dire position when we have to consider the value of areas of high environmental significance as part of a development proposal. We therefore oppose this clause.

As I said in the second reading speech and other members have said, much of the D'Entrecasteaux National Park is on the register of the National Estate. Nothing gets on the register of the National Estate without a huge battle and it is highly significant.

Mr Omodei: It gets there very easily. Anybody can nominate.

Dr EDWARDS: I am pleased to hear the Minister's optimism. I disagree. It is one thing to nominate; to get it on is a lengthy process. In that region and around Lake Jasper there are declared rare flora and other flora, many mammals and significant species of birds, including birds covered by international treaties. There are also examples of endemic freshwater fish that have disappeared from other parts of south western Australia and a number of invertebrate taxa that are not found in other places. The wilderness aesthetics of that place are recognised.

The Aboriginal heritage value of the site is another issue. We have heard people speak in detail about the underwater archaeology work that is being undertaken at the site. That is new for this State and even for Australia. For all those reasons, this is an extremely significant area that warrants high level protection, which it has currently and which we do not want to see eroded.

Our real concern is about what will happen after the excision occurs. Over the last few years the Environmental Protection Authority has made astounding decisions. For example, it decided not to have any formal assessment of the impact of the Northbridge tunnel. It is not good enough for the Minister for the Environment and this Minister to say that they will encourage the Environmental Protection Authority to set the highest level of assessment. There can be no guarantee of that. In fact it is not possible to do it because of the independence of the EPA.

Mr Minson: That is not true. The Minister can upgrade.

Dr EDWARDS: He can upgrade but he cannot give a guarantee.

Mr Minson: Of course, he can. He can say, "I will tell it to do that.".

Dr EDWARDS: It would be improper for the Minister to say that, given that the EPA is independent.

Mr Minson: He could do it if he wanted to.

Dr EDWARDS: If the EPA set a level of assessment that was not high enough and nobody appealed it, there is no way the Minister could do it. There is no power in the Act for him to do it. He can raise it only upon appeal.

Mr Minson: You could lodge an appeal if you wished.

Dr EDWARDS: I would lodge an appeal only if I thought it was proper.

Mr PENDAL : I support the amendment and request the indulgence of the committee to make a couple of remarks that are relevant to the clause, but which are of a wider nature. I intended speaking in the second reading debate.

I was at a funeral when that debate was held and arrived back when the debate was concluding. However, the matters are covered by this clause.

I generally agree with that which the Opposition has said on this amendment. However, I want to broaden it because we should be looking at something of a wider implication in respect of the approvals given to this project. The former Opposition - the present Government - made major commitments to dieback research prior to the last state election. I request the Minister to have the Minister for the Environment give us a timetable for a serious attack on dieback, particularly as it affects our national parks. For example, Cape Le Grand National Park is now 50 per cent affected by dieback; Two Peoples Bay nature reserve near Esperance is something like 70 per cent affected; and Stirling Range National Park is around 20 per cent affected.

A dieback research institute was a major commitment by the coalition parties in 1992-93. The area for which this licence is being requested is seriously affected by dieback. One might feel that makes it all the easier to say that mining should go ahead. That is not the case, because this is an area that has been debased by dieback and the concern is - that concern incidentally is spelt out in the Government's policy - the impact it will have on areas in D'Entrecasteaux National Park that are not affected by dieback. Many people may say there is little there. However, dieback is spread in classic ways, such as by the movement of machinery and also by the movement of water. The Opposition amendment relating to the hydrology of Lake Jasper touches on this point.

The question confronting the Committee today is whether the spread of dieback could be easily facilitated by this mining application. I suggest that we should be demanding of the Government a wider brief than that embodied in the Opposition's amendment. I suggest that an assessment of the impact of the spread of dieback as a result of the new mine should be undertaken before the licences are completed.

The results of the Commonwealth Scientific and Industrial Research Organisation study into the hydrology of the Lake Jasper area, which were referred to by the member for Maylands, should be received. I also believe a classic case has been established in this scenario for our imposing an extra royalty, perhaps of no more than 0.5 per cent of the total value of the project. That money should be alienated for the management of our national parks. We have a good record in this State for the creation of national parks. However, we have an abysmal management record. The Government should address itself to alienating that 0.5 per cent.

I share the concerns about Lake Jasper. Its history goes back approximately 7 500 years. It is important not only for our Aboriginal heritage but also for the whole of our heritage in Western Australia. There are remnants of an Aboriginal settlement at the bottom of that lake. I signal my intention to support the Opposition on this one clause.

Progress

Progress reported.

[Continued on page 5308.]

STATEMENT - MEMBER FOR GERALDTON

Geraldton Curfew

MR BLOFFWITCH (Geraldton) [12.51 pm]: I take this opportunity to explain to the House the statements I have made about a curfew in Geraldton. I did not intend it to be a general curfew. I have asked the City of Geraldton to assist by introducing a by-law to impose a limited curfew in an area which is a particular trouble spot. Both the State Government and the local council have a role to play in this issue.

Some very interesting legislation is being enforced in Gosford and Orange in New South Wales that gives the police the power to talk to groups of youths, to ask for names and addresses and to return them to their homes. The legislation also provides that on the second occasion the youths are apprehended by the police their parents must undergo counselling to be advised of their responsibilities. In most instances where children roam the streets it is the parents who need educating.

I intend to introduce the successful New South Wales legislation in this Parliament and I look forward to members supporting it in an endeavour to encourage parents to take more responsibility for their children.

STATEMENT - MEMBER FOR KENWICK

Aboriginal Reconciliation

DR WATSON (Kenwick) [12.53 pm]: Now that the motion supporting Aboriginal reconciliation has been passed by both Houses of Parliament, it is timely for members to consider how the Parliament can signal a continuing commitment to that end. One way is to provide a permanent space at Parliament House for an Aboriginal history

display, including information, contemporary and traditional art, and artifacts. This information would then be available to not only members, but also the thousands of people who visit the Parliament each year. I remind members and members of the public that, as well as legislation, substantial resources are needed to redress the shameful living conditions and the lack of access to health care, education, housing and justice confronting too many Aboriginal people in Western Australia. Without justice, there will never be any reconciliation.

I advise members that an opposition member in New South Wales put forward a proposal for a similar display in that State and the Parliament agreed to it. It is timely for this Parliament to commit itself to providing a permanent place for Aboriginal reconciliation in the John Forrest foyer. I hope members will agree to my proposal.

STATEMENT - MEMBER FOR GLENDALOUGH

Guildford Primary School, Conservation Plan

MRS ROBERTS (Glendalough) [12.54 pm]: The very important matter I raise today is the necessity for a conservation plan at Guildford Primary School. This school is Western Australia's oldest state school and it still retains part of its 1868 structure in functional classroom use. The school urgently requires a conservation plan, including a concept plan of future development. The historic integrity of Western Australia's oldest school must be maintained and future planning should enhance the building and not impact adversely on existing facilities.

The recent state Budget included funds for an extension to Guildford Primary School, including an undercover assembly area; however, it did not include funds for a conservation plan. It is imperative that the conservation plan be completed prior to any new extensions to the school. The school has significant site limitations. Its land area is already underresourced; the site being 2.8 hectares compared with 4 ha for new primary school sites. One hectare of the school site has limited winter usage because of the flood plain. The remaining 1.9 ha of high ground contains school buildings and has only 0.7 ha of play area. I have met representatives of the parents and citizens association and walked over the school with them. Conditions at the school are cramped. Even with the extensions due in 1997 it is only a matter of time before more classrooms are needed. As a former teacher and a parent it is my view that a couple of classrooms and the library are already inadequate.

Enrolments are on the increase and action is needed right now on a conservation plan not only to protect the historic integrity but also to ensure appropriate size play areas are provided. Such a conservation plan would cost less than $5 000. It should be done without delay and not at the expense of the urgently required facilities on this year's Budget.

STATEMENT - MEMBER FOR WHITFORD

Radio Lollipop

MR JOHNSON (Whitford) [12.56 pm]: I commend the work carried out by Radio Lollipop Australia and, in particular, the work of volunteers in Perth. Radio Lollipop is staffed completely by volunteers. It is now an international organisation. Radio Lollipop stations operate in Perth, Brisbane, and New South Wales. There are about 16 stations operating in the UK, and in various parts of America. Apart from one part time secretary who does all the administration work, nobody is paid in that organisation.

Many people think that Radio Lollipop is simply a radio station. It is not. The most valuable part of the work done by Lollipop is the volunteers' work on the wards. That is why the station is on air. Radio Lollipop stands for "lots of love and laughter in place of pain". That is a very good catch phrase. An evaluation was conducted recently of the work of volunteers. It was shown that while Radio Lollipop was on air, and volunteers were working in the wards caring for the children and helping them with therapeutic play, the demand for pain killing tablets reduced by 92 per cent. That is a wonderful outcome. Radio Lollipop works well. We hope later this year to have a satellite linkup with the new children's ward being established at Fremantle Hospital, and at some later stage at Wanneroo Hospital.

STATEMENT - MEMBER FOR KALGOORLIE

Boulder Police Station, Resources

MS ANWYL (Kalgoorlie) [12.57 pm]: I criticise the shortsighted decision of this Government not to allocate sufficient police resources to allow the reopening of the Boulder police station. The residents of Boulder are entitled to be upset and disappointed that no permanent police presence will be established in Boulder.

The Kalgoorlie-Boulder police do an excellent job under difficult staffing circumstances. I note that they are looking at ways to increase the police presence on the streets both in Kalgoorlie and in Boulder. I have been critical in this place many times that scarce police resources are spent transporting juveniles to Perth and back. It is about time

Kalgoorlie had a juvenile detention facility. The Government promised in its 1993 policy document to encourage increased police numbers in the goldfields, in particular in Boulder. The Government has its priorities all wrong, because it has not increased those police resources. The goldfields community is concerned about crime, especially violent crime and where emergency responses are required from police. The community wants more police on the streets. I support moves by the local police hierarchy to free up as many general duties police as possible to do that. I call on the Minister to provide the extra four constables recently requested by the Kalgoorlie police.

STATEMENT - MEMBER FOR SWAN HILLS

Breast Cancer, Medical Research Centre

MRS van de KLASHORST (Swan Hills) [12.59 pm]: I will highlight the fact that breast cancer awareness day is next month, and a group of people are lobbying for a Western Australian medical research centre.

Breast cancer is the most serious malignancy affecting women at the moment. It is the most commonly diagnosed cancer of Australian women. It is the leading cause of death of women between the ages of 35 and 60 years in this country.

On average 683 new cases of breast cancer are diagnosed annually in Western Australia. One in four women with breast cancer dies within the first five years, and 40 per cent die within 10 years of contracting the disease. The death rate from breast cancer has not been reduced in more than 50 years. Some petitions are being circulated at the moment to obtain signatures from people asking the Government to provide much-needed research money. The petition asks for an allocation of $2m a year for the next 10 years for a medical research centre. That request should be compared with $30m allocated over a 10 year period in Victoria, an allocation of $31m in Queensland, and an $8m contribution to breast cancer research on the federal scene. I urge and implore the Government to take notice of the petition when it arrives and to work towards providing this medical research centre. Most doctors in Western Australia support it.

Suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

MATTER OF PUBLIC INTEREST - PRIVATISATION AND CONTRACTING OUT; METROBUS

THE SPEAKER (Mr Clarko): Today I received within the prescribed time, a letter from the Leader of the Opposition in the following terms -

> Pursuant to Standing Order 82A I propose that the following matter of public interest be submitted to the House for discussion today -
>
> That this House -
>
> condemns the Court Government's ideological pursuit of privatisation and contracting out and in particular the Minister for Transport for lying to the public of Western Australia and treating MetroBus workers with contempt in his implementation of these policies.

This matter appears to be in order. If at least five members stand in support of the matter, 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 being allocated to the Opposition, half an hour to Government members and five minutes in total to the Independent members should they seek the call.

Points of Order

Mr COWAN : I wonder how it is that a motion can be put before this House in respect of a matter of public interest that contains language that is quite clearly unparliamentary. Mr Speaker, I would like you to explain to us how this matter can be in order when it contains unparliamentary language.

The SPEAKER: Normally, to use the word "lying" would be contrary to standing orders and not allowed. However, words of that nature can be used if they are in a substantive motion. It is on that basis that I accepted the motion.

Mr BLAIKIE : Does the House consider it appropriate that the motion moved by the Leader of the Opposition indicates certain things about the Minister for Transport and that Minister is not a member of this House? Where is the conformity with standing orders in providing that Minister with an opportunity to answer any challenges or charges made against him in this House?

The SPEAKER: It is normal practice that, where a person seeks to ask a question of a Minister in another place, a Minister who has previously been designated to act for that person is able to do so. I have accepted this motion in that same vein.

Debate Resumed

MR McGINTY (Fremantle - Leader of the Opposition) [2.32 pm]: I move the motion.

There is no more profound difference between the Government and the Opposition than in the area of transport. The decade of government from 1983 to 1993 saw the Fremantle to Perth railway line reopened after it had been shut in a very shortsighted move by the former Liberal Government in this State; the entire rail network electrified; the very progressive and exciting northern suburbs railway system built over the objections and total opposition of the Liberal Party and members sitting opposite; and planning significantly advanced to extend the benefits of the fast, efficient urban rail system to people in the southern suburbs of Rockingham and Mandurah.

Several members interjected.

Mr McGINTY: Those matters were well and truly under way. The people of Rockingham would now be travelling on a fast, efficient rail system had it not been for this change of government.

Mr Trenorden interjected.

The SPEAKER: Order! I call to order the member for Avon.

Mr McGINTY: People would have been travelling on that line from Rockingham to Perth today. Members opposite do not like it because public transport is a great failing on that side of the House, and they know it.

Several members interjected.

The SPEAKER: Order!

Mr McGINTY: When Labor was in power, public transport was a priority because it was important to the people living in the outlying suburbs of Perth that they be serviced with a fast, efficient and affordable public transport system. It was also important from an environmental point of view. We have heard much debate recently about the effects on air purity of being such a car dependent city -

Mr Trenorden interjected.

The SPEAKER: Order! I again call to order the member for Avon.

Dr Turnbull interjected.

The SPEAKER: The member for Collie will also come to order.

Several members interjected.

The SPEAKER: If I did that, there would not be many people here.

Mr McGINTY: We have seen in recent weeks, and it has been admitted by the Minister for the Environment, that between 75 and 100 people each year die in Perth as a result of air pollution. That should be causing enormous concern. However, this Government's transport policies show an ongoing push towards the use of private motor vehicles and the rundown of public transport. The record of this Government on public transport has been to privatise the buses, and I will address that issue in more detail later.

The Government's other great initiative is the tunnel in Northbridge that no-one wants. The Minister for Planning today clearly misled the House when he suggested that that project was supported by the Labor Party. We would not have done it and we do not support it. Nothing could be clearer. This Government has a fascination with all things from the 1950s and 1960s. Members opposite have an obsession with the private motor vehicle, which pollutes and kills, and they believe we must build more freeways and tunnels to accommodate them. In the late 1990s, any forward thinking Government would be looking at placing much more emphasis on public transport than does this Government.

Labor Party policy in the 1990s shows a growing emphasis on the need to promote public transport as a solution to our environmental, economic, social and transport needs in this State. Members will not see the Labor Party divert resources from public transport into road construction. That approach was prevalent in the 1950s and 1960s and it is outmoded today. However, that is the approach to public transport taken by this Government. The Labor Party is committed to extending the urban passenger rail system. We have already said that we will commence construction of a rail connection to serve the people of Rockingham and Mandurah in the first year of an incoming Labor

Government. We have also said that we will extend the highly successful northern rail system to service the outlying but fast growing suburbs of Merriwa and Clarkson.

The passenger railway system will be extended by some 10 kilometres. Against that progressive, forward looking approach, which is much wanted by the people of this State, we have the backward looking, polluting promotion of the private car idealogy that runs this Government. We have seen the enormous hurt and dislocation that the privatisation of MetroBus has caused. At a human level, the bus drivers are finding themselves without work or they have had their conditions of employment so dramatically reduced that in their family lives are tension, uncertainty and stress. Family life for many of those people is being destroyed. Bus drivers who met outside Parliament House yesterday and those whom I have met at the various MetroBus depots around the metropolitan area - notwithstanding attempts by this Government to deny me access to government property to talk to the employees who are about to lose their jobs thanks to this Government - have told me that they are standing to lose up to $5 an hour off their rate of pay. If we convert that to a full time working week basis, that represents before tax up to $200 a week less in their pay packets. I ask members opposite how many of them in the push for privatisation that they are so keenly behind would be prepared to give up $200 a week out of their pay packets? Not one of them would, but they are prepared to inflict that on low paid government workers who drive our buses in this State. They are prepared to drive them into poverty and see their standards of living slashed. They are prepared to see all these pressures put on those people, who have commitments, families to raise, children to educate and mortgages to pay. Members opposite must think about the human impact of their actions on literally hundreds and hundreds of workers throughout the length and breadth of this State. The Government is driving them into poverty and despair.

Mr Strickland: That is not true.

Mr McGINTY: It is absolutely true. Why does the member for Scarborough not offer to take a pay cut of $100 or $200 a week? He is an absolute hypocrite and will not do it.

Several members interjected.

The SPEAKER: Order!

Mr McGINTY: The Government is privatising the buses, not to improve the quality of service to the people of the State but for two reasons: One is to satisfy an ideological objective to transfer resources from the public to the private sector, for no other reason than the fact that it is ideologically hung up on that, and the other is to take it out on the employees who have made this industry their commitment in life. The Government is trying to cut the budget bottom line by reducing the pay for relatively low paid workers, and in doing that it is destroying their family life and standard of living. That will be the inevitable effect of the Government's approach.

Mr Court: Would you support it if their pay went up?

Mr McGINTY: Do not ask me a hypothetical question. In every case pay has gone down.

Mr Strickland: That is wrong. Ask the member for Swan Hills.

Mr McGINTY: In not one case can members show me where drivers are better off. In every case the Government is inflicting economic hardship on these people. The Government has misled people. The shadow Minister for Transport will address that in a few minutes. This is a clear cut case of what the Government is doing to thousands of people through its privatisation programs. The catering staff and cleaners at Fremantle Hospital are next on the chopping block. The Government has already done this to people at Royal Perth Hospital and others in schools. Literally thousands upon thousands of former government employees in this State are bleeding and hurting as a result of the Government's actions. For that reason I commend this motion to the House to condemn the Premier and his Government for what they have done to a lot of very decent Western Australians.

MRS ROBERTS (Glendalough) [2.43 pm]: The motion condemns the Government for its ideological pursuit of privatisation and contracting out regardless of the impact it has on its own workforce. As part of the motion we have taken the very serious step of accusing the Minister for Transport of lying and treating public sector workers with contempt. Because of that, I would like to outline some of the lies that the public and bus drivers have been told. In the Minister for Transport's letter, dated 28 June 1996, and sent to me and other members of Parliament, he wrote that all tenderers, including MetroBus, provided for similar staffing and wage structures. That is blatantly untrue. I have here a table which shows the wages that workers can expect in the various contract areas, whether they go to Transport Management Group, Swan Transit Pty Ltd or Australian Transit Enterprises or stay with MetroBus. At a very basic level the flat rate per week at Swan is $432. That compares with the MetroBus award for class 7 of $487 or the enterprise bargaining agreement of $620. Therefore, there is a considerable difference. I have met numerous bus drivers, some as late as only yesterday, and they all tell me that they are facing a pay cut of between $100 and $200 a week. They cannot say exactly what their pay cut will be because they do not even know what shifts they will

be offered. They are saying, "We are being asked to sign a blank cheque. We do not know what shift roster we will get if we sign up with one of these three contractors." Lie number one is that there will be similar pay structures. Each of the three companies has had to put pay structures on the table for the workers to be able to assess whether they want to go to it.

It is interesting that we have had interjections about Swan Transit. I met Neil Smith of Swan Transit and went through each of the promises the Minister had made in relation to the operation of Swan Transit. He said, "We intend, if anything, to improve services and to meet the obligations the Minister has spelt out." The only area in which he said that Swan Transit would not be comparable to MetroBus is the issue of drivers' wages. He agreed that Swan Transit's pay structure was less than that offered by MetroBus. How could Swan Transit argue otherwise when we can read it in black and white on this table of pay offered by the private contractors and MetroBus? There is no argument there. Not even the private contractors are saying that they are prepared to pay the MetroBus award.

The second lie written in the same letter of 28 June 1996 by the Minister for Transport was when he wrote that competitive tendering is a win, win, win situation - the taxpayers of WA win, the travelling public wins and local communities win. He wrote that, most importantly, all staff members would be properly cared for. Every staff member whom I have met has not been properly cared for at all. I do not see how anyone can call properly caring for people offering them a job where they will be paid a lot less. Worse than that is what is happening to their superannuation. They are not being properly cared for in respect of their superannuation payout. Many of them stand to lose up to 30 or 40 per cent of their superannuation.

Mr Trenorden: Explain how!

Mrs ROBERTS: I can explain it very clearly for the member for Avon. Whether bus drivers choose to go to private contractors or stay with MetroBus they are doomed. They can leave their superannuation in the government scheme, in which case they will receive the cost price index figure plus 1 per cent per annum, which is a pathetic way for them to go. Any financial adviser would say to them that to leave their money in the government system and receive only the CPI figure plus only 1 per cent would not be appropriate. Most funds offer a higher rate of return than that.

Mr Trenorden interjected.

The SPEAKER: Order!

Mr McGinty interjected.

The SPEAKER: Order! Its out of order for the Leader of the Opposition to speak at this time and I formally call him to order for the first time. The member for Avon is interjecting excessively. I made a strong reference earlier to his broad comments. His more recent ones are more specific. The member for Glendalough is making it clear that she is not prepared to accept the member's interjections; that is her right. If the member continues to interject, I will have to formally call him to order.

Mrs ROBERTS: The alternative for the MetroBus drivers if they want to get their money out of that scheme, which does not deliver a good rate of return, is to have 1.75 per cent per year for every year they are under the age of 55 deducted from their superannuation. For some that means a loss of over 30 per cent from the amount of their superannuation today. That is not fair. A lot of the workers cannot afford to leave the government service. The Government is saying on the one hand that it wants them to work for one of the private operators but on the other hand it is asking them to cop $100 or $200 less per week and either keep their superannuation funds in a scheme that will not return the dividends that another fund would deliver or take a drop of approximately 30 per cent in the real value of the amount of their superannuation today. That is unfair. It is blatant hypocrisy on the part of the Government when the Minister for Labour Relations constantly says that employees should be able to have their superannuation funds in whatever fund they like. The Government is not allowing its workers - it is not their fault that their industry is being contracted out - to take their superannuation out at full value and carry it across to another scheme. That is unfair. Therefore, it is a lie when the minister says that those workers are being properly cared for, because they are not. It is also a lie when the Minister says that they are being offered similar wage structures. They are not.

The third area in which the Minister is found wanting is in his press statement in which he said there would be no forced redundancies among MetroBus drivers as a result of the latest tenders. Sight impaired Freddy would realise that there will be forced redundancies. At the rate the Government is going, 200 to 300 former MetroBus drivers will be surplus to requirements for the areas covered by MetroBus. Currently, MetroBus still has about half of the MetroBus routes. Unless another couple of hundred drivers move across to one of the private companies, a couple of hundred bus drivers will be surplus to MetroBus' requirements. What will the Minister do with them? Will he sit them in a shed like he sat the Westrail workers in a shed?

Over the past three years we have seen a very much diminished Public Service, especially in terms of blue collar workers. All the areas in which blue collar workers are employed are being contracted out by this Government. There are no areas to which they can be redeployed. It is a nonsense for the Minister to say continually that the Government will reskill them and put them somewhere else. The Government has washed its hands of these workers. I believe it is trying to see how many of these MetroBus workers are desperate enough - many of the younger workers with young families and large mortgages are very desperate - to accept the pay cut and the drop in their superannuation so that they have job security in the hope that they will make it up in the years to come. It is an abysmal and heartless situation into which the Minister for Transport and the Government have placed these workers.

I do not think that the Premier or his Government should get off lightly. The Minister for Transport is not the only one who is following this ideological pursuit of contracting out and privatisation. That policy comes straight from the top. I remember the Premier's letter at the end of December 1993 in which he instructed Ministers to get on with the job of contracting out and a further letter the following year from Craig Lawrence, the Premier's henchman who now heads the Supply Commission, asking Ministers to report on how much progress they had made with contracting out and privatisation. However, I blame the Minister for telling lies about the tender process, for bungling that tender process, and for keeping MetroBus drivers on a string over the last year wondering whether MetroBus would win one of the five major tenders for services that comprise about half the metropolitan area, or whether they would go to a private company. History now records that all five of those major tenders went to private companies. I also blame the Minister for bungling in the area of portability of superannuation. It would be only fair to allow these workers to take their superannuation out at the amount it is worth today. Contrary to some of the interjections from members opposite, I do not blame Swan Transit Pty Ltd, Australian Transit Enterprises or Transport Management Group. They are doing their jobs. I blame the Government for lying to us and lying to its workers.

When the Minister announced the tenders, he said that there would be a 30 per cent saving in MetroBus and that most things would stay the same; that is, fares, concessions, timetables, routes, service frequency, and the quality of the buses. They are the same buses and in many cases the drivers will be MetroBus drivers. Therefore, we wondered how the Government would deliver the 30 per cent savings. It has now become clear. The Government is delivering the savings by slashing and burning the wages of the bus drivers. That is the truth. It has tried to hide that fact from the public. However, it is now out in the open and can be hidden no longer from the bus drivers. They know what the future holds for them.

I am puzzled about what criteria the Minister used for those tenders. Other than price, I cannot understand how proper comparisons were made with some of the tenderers. In some cases, the preferred tenderers or consortia were not operating bus services in their own right. How could the Government make a comparison of the bus services? The individual operators were operating much smaller services than the services operated by MetroBus.

Most of the private companies have taken their management people from MetroBus. One wonders how they will be any better managers working in the private system than they were in the public system. The Minister also said in his letter of 28 June that the fundamental measure of the competitive tender process has been to deliver the best value for money to this State. Those 30 per cent savings are at the expense of the government drivers.

Before I conclude I want to talk about the future if this Government is allowed to continue in power. The 1995 Perth metropolitan transport strategy at page 44 states that cost efficiency will be promoted by extending competitive tendering to cover all bus and train services. The second point states that part of the strategy is to introduce fare structures and levels which reflect the cost of providing services. Those are the two ways in which it will promote that cost efficiency. The Government will not be satisfied with contracting out half of MetroBus; it is moving to contract out all bus and train services. That is what the public of Western Australia has to look forward to if the coalition continues in government. No thought has been given to what will happen to the families of the bus drivers, how they will meet their mortgages or how they will pay for their children's education. The member for Kenwick will follow up on those matters.

Earlier in the debate the member for Scarborough made some smart remarks. I have information for him regarding services that have been already cut from his own electorate. That may affect you also, Mr Speaker. Currently MetroBus operates three services a day, from Monday to Friday, from the Innaloo shopping centre to Scarborough at 11.30 am, 1.30 pm and 3.30 pm. The Karrinyup depot has received a request from the Department of Transport to drop two of those trips because the private company does not want to work them when it takes over.

Those three services do not appear on the timetable. They were put in place by MetroBus in response to requests from the public after MetroBus withdrew the route 400 deviation from the shopping centre due to changes in the road layout. MetroBus has been asked to drop two of those services because a private contractor will not want to be seen to be cutting them.

I have not spoken to the member for Swan Hills because, as I pointed out, my complaint is not with the private companies; it concerns the administration of the transport system by the Government. It is clearly not doing that properly. I received a copy of a letter dated 15 August which Mrs Edna Eley sent to the Transport Minister in which she refers to a train service. When she got off her train and went to catch a connecting bus, she and a large group of school children were left behind because the bus did not wait for that train to arrive. That meant that Mrs Eley and the school children were waiting at the bus stop for 20 minutes. Parents worry when their children do not come home on the expected bus.

MR LEWIS (Applecross - Minister for Planning) [3.01 pm]: I am amazed to think that the Opposition -

Dr Watson: You are amazed to think what you have done.

Mr LEWIS: I have not spoken for one second and members opposite are already into it. It is amazing. The Opposition mucked up its motion yesterday so it has brought it into the House today.

Mr Ripper: It was not mucked up; you brought in a suspension of standing orders which took up the whole day.

Mr LEWIS: The Opposition has addressed a motion to the Minister for Transport on matters that are obviously very close to him and are in his jurisdiction. At the same time in the upper House members have moved a motion on planning matters. What does that say? Clearly it says members opposite do not know what they are talking about because they do not have the internal fortitude to address the responsible Minister in the proper House on the matters they want answered. The bottom line is that members opposite are gutless in the extreme when they move a motion which impugns the character of a member in another House.

Although I do not necessarily agree with your ruling, Mr Speaker, I agree that this motion should not have been allowed.

Point of Order

Mr RIPPER : I believe it is not in accordance with standing orders for a member to canvass one of your rulings, Mr Speaker, and I ask you to draw that to the attention of the Minister for Planning.

The SPEAKER : Order! The leader of the opposition House business is correct. It is difficult for me, as it relates to me; but the Minister should not reflect on the Chair and I ask him not to do so.

Debate Resumed

Mr LEWIS: I was not trying to criticise you, Mr Speaker; I was referring to the general principle of the process. Does the wording of this motion not reflect that streak of nastiness that seems to exist within the Leader of the Opposition and the member for Glendalough. They cannot help being nasty.

Mrs Roberts: What have you done to bus drivers?

Mr LEWIS: Quite frankly, we should despatch this motion with the contempt in which it has been brought to the House because it shows gutlessness. I will give some advice to the Leader of the Opposition and members opposite. If they continue to bring these motions to the House and to use these tactics, they will appear exactly as Alston depicted today in a cartoon; that is, in a rowing boat going backwards at 100 miles an hour over a weir. That is where members opposite are going. They are making no progress and they have Buckley's chance of winning the next election.

They are not tackling the substance of serious issues in the community. They are into trivialities. They are not brave enough to move a motion in the appropriate House where the responsible Minister can address the issues. They are going nowhere fast. Most of the smart people on their side of the House realise that, notwithstanding it is only a matter of time before the Leader of the Opposition gets despatched.

Mr Ripper: Are you embarrassed to read your speech in *Hansard* of 1991?

Mr LEWIS: When the Leader of the Opposition spoke on the introduction of this motion he did not know his facts. He rambled on about the Labor Party's intention to build a railway to the southern suburbs by December 1995. Everyone in Western Australia knew that was an outrageous claim. He went on to skite about it being planned and ready to proceed. When I became the Minister for Planning I had a fair amount to do with that proposal. At the time the Government did not even know what technology it would use. A fight took place between the members for Rockingham, Peel and Fremantle about whether the technology would be a fast tram to Fremantle or rapid rail via Kenwick to Perth.

Mr Trenorden interjected.

Mr LEWIS: That Labor Government did not know where it would be located. It took a coalition government to locate a railway reservation and enshrine it in our metropolitan region scheme.

Dr Watson: Nobody wants it through Kenwick.

Mr LEWIS: It is in *Hansard* that the people in the electorate of the member for Kenwick do not want rapid rail servicing their area.

Mrs Roberts: That is not what she said.

Mr LEWIS: The question I ask the member for Glendalough is whether the Opposition supports the May 1995 resolution of the Council of Australian Governments which clearly and unequivocally suggests that we must get into competitiveness within this country. Does it support that COAG resolution?

Mr Brown: It says nothing about lower wages.

Mr McGinty: Not if it is off the back of the workers of this country.

Mr LEWIS: Members opposite do not support it; therefore they did not support former Prime Minister Keating or Premier Bob Carr in New South Wales. Incredibly, the Opposition comes in with a weak, limp-wristed motion tainted with nastiness to denigrate the Minister for Transport in the other place. They do not even abide by the policies of their own Labor Party that have been enshrined in Australian law via the Federal Parliament and the Hilmer report sanctioned by former Prime Minister Keating.

The member for Glendalough went on to say that we are talking about privatisation and all that sort of thing. The Western Australian Government is not privatising Transperth, MetroBus or public transport.

Mr McGinty: You do not know what is happening within the portfolio.

Mr LEWIS: The Government is not privatising those services. It is fallacious for the Leader of the Opposition to suggest that it is.

Mr McGinty: Tell that to the workers who have lost their jobs.

Mr LEWIS: The Government is encouraging competition in the public transport system which is fundamental. The Opposition's motion is contrary to the policy of the previous federal Labor Government. It sold Qantas and the Commonwealth Bank and tried to sell Australian National Lines. The unions crunched Keating two or three times on that basis. Members opposite are saying that this Government should not be encouraging competition in the public transport system in this State. We absolutely reject that. It is interesting that on 25 November 1991, the current Leader of the Opposition, Mr McGinty, was quoted in *The West Australian* as saying that costs incurred by construction and maintenance areas of the BMA were still about 30 per cent higher than those in the private sector. I can well recall that at that time, he came in here and defended the position of his Government and how it was absolutely necessary to dismantle the non-competitive situation that existed within the BMA, with many job losses. Let him deny that!

Mr McGinty: I will deny that absolutely. Tell me about the loss of many jobs. You are lying. You cannot lie like that. That is outrageous.

The DEPUTY SPEAKER: Order!

Withdrawal of Remark

Mr JOHNSON : Mr Deputy Speaker, the Leader of the Opposition has just called the Minister a liar. That is totally unparliamentary and I ask that he withdraw and apologise.

The DEPUTY SPEAKER: In the context of this motion, this term, which is normally unparliamentary, can be used as it relates to the motion. However, the Leader of the Opposition has, by using that word to another member in this place, been unparliamentary, and I ask him to withdraw.

Mr McGINTY : I withdraw.

Mr BLOFFWITCH : Mr Deputy Speaker, the member for Glendalough also repeated the accusation by using that phrase, and I ask her to withdraw also.

The DEPUTY SPEAKER: I have not given the member for Geraldton the call yet, but I did not hear the member for Glendalough make that statement; if she did, then I call upon her to withdraw.

Mrs Roberts: Your hearing is impeccable, Mr Deputy Speaker.

Debate Resumed

Mr LEWIS: I suggest that the member for Glendalough did not withdraw, but -

Mrs Roberts: There was nothing to withdraw, you fool.

Mr LEWIS: - that is beside the point.

The Government is putting competition into the public transport system in Western Australia, particularly in MetroBus, and carrying out a program of competitive tendering of the Transperth network. MetroBus, which is supposed to operate at arm's length from Government, tendered for contracts. The difficulty is that MetroBus did not win all the tenders because it could not get its act together. It was at a stage where it was running fat and could not compete with the tenders that were submitted and accepted. Is it not responsible of Government to try to get competition into the public sector, particularly within public transport? Members opposite believe it should just be allowed to continue on without any competition and get fatter and fatter and run more and more inefficiently.

Several members interjected.

The DEPUTY SPEAKER: Order! It is totally intolerable when someone is trying to give a speech and be heard and we have this cross-Chamber interjection between two members who have not been involved in the debate.

Mr LEWIS: It is about competition, and that is in line with what the rest of Australia has resolved to do. Swan Transit Pty Ltd is now operating the Midland bus service. I understand that the independent audits that have been carried out have found that running times have been better than for the previous service; the number of mechanical breakdowns have been lower; and the cost savings have been about $500 000 per annum. That is in only one service. The advice to the Government is that there will be a saving of about $10m a year in the operation of public transport, particularly bus transport.

The Government has not privatised. It has commercialised. That is an important point. The Government retains the ownership of the rolling stock; it sets the fares; it has jurisdiction over the timetables; and it sets other conditions. If it had privatised, those four fundamental elements would be in the hands of a private operator, but they are not; they are still under the control of the Department of Transport. We tendered out on that basis, and MetroBus was not smart enough, lean enough and good enough to win those tenders. They are the facts.

It is pretty well known that for 35 years, there was no competition at all in public transport in Western Australia. Any reasonable person would understand that when there is no competition, whether it be in the private sector or the government sector, people get lazy. Their commercial practices are not sharp. I put it to this House and to the Opposition that in line with the Hilmer report and in line with the resolutions of the Council of Australian Governments, it will be good for this State and for Australia if we can get competitiveness back into our transport system and if we can get rid of the fat that has obviously crept in there over the past 35 years when there was no competitive tendering.

The member for Glendalough tried to make the point that 200 or 300 people would be dispossessed. I will give the facts. Already 225 staff have confirmed their intention to take up opportunities in the organisations whose tenders were successful. There will be no positions for about 150 staff, and the Minister is very much aware of that. That is a great difference from what the member has suggested. There has been counselling, and the chief executive of MetroBus has been to all the depots and work sites to explain the situation. Until now there have been no dismissals; it has all been voluntary.

We are in government. The Leader of the Opposition as a Minister in the former Government sacked 200 or 300 people from the BMA and it was okay then, but when this Government, in line with COG's resolutions, tries to put competitiveness into our public transport system, it is not okay. That is hypocrisy. Those opposite go on about a lie concerning pay structures. That is absolutely fallacious.

Amendment to Motion

Mr LEWIS: As my colleague the Deputy Premier wants to contribute to this debate, I move -

To delete all words after the word "House" with a view to substituting the following -

> commends the coalition Government's pursuit of better management of public transport through contracting out which has resulted in Western Australians getting better value for money for services provided in the public transport sector.

MR COWAN (Merredin - Deputy Premier) [3.20 pm]: When it was first signalled yesterday that this motion would be debated in this Parliament, I was quite intrigued. It was a blatant lie then, and it still is. The Government is not

pursuing the privatisation of the transport sector. It has called tenders for the delivery of a service to 48 per cent of the State's public transport services provided by buses. It has not called tenders for any of the train services. In that context, if we are allowed to use the term "lie", the original motion was a lie. I am very pleased to support the amendment moved by the Minister representing my colleague the Minister for Transport who resides in the other place.

The second lie advocated by whoever was foolish enough to move this motion is that the Minister for Transport is alleged to have lied to the public of Western Australia for the way in which he treated MetroBus workers.

Mr Ripper: Do you stand by everything he said in the letter?

Mr COWAN: Yes, I do.

Mr Ripper: He said that a similar wage structure for all employees was embodied in the policy. That is wrong.

Mr COWAN: I do not have any proof that demonstrates that is wrong.

Mr Ripper: Ask the bus drivers. They have been to all our electorate offices and talked about the wages they were receiving from the private operators.

Mr COWAN: None of those bus drivers is working under the contracts that have already been let to the private sector. Those opposite make assumptions and then they fall into the same mistake of regarding that assumption as fact - they do this every time. It is not fact; it is an assumption.

Mrs Roberts: It is written here.

Mr COWAN: It does not matter how much it is written on a piece of paper; it is an assumption. I have not seen any documented evidence to suggest that those drivers who have been prepared to accept alternative employment with private contractors are disgruntled with either the quality of service they are expected to provide, with the pay they receive -

Mrs Roberts: You come with me and I will take you to them.

Mr COWAN: I will bet they are still working for MetroBus. As the Minister representing the Minister for Transport has said, more than 200 people working for MetroBus have already indicated their preparedness to move into the private sector.

Mrs Roberts: Desperate, young men with mortgages.

Mr COWAN: Some of those desperate, young men with mortgages, having being asked about their attitude to their new employer, said that it was a pleasure to go to work; to feel when they get up in the morning that they want to go to work, rather than to think how terrible it is to go to work. Now that we have dealt with the lies contained in the original motion, I can say how pleased I am to support the amendment because it gets closer to the truth.

People have spoken about our wonderful public transport service in Western Australia. Can members opposite tell me why people do not use it, if it is so good?

Mrs Roberts: What about your own private opinion poll when people said that it was not so good.

Mr COWAN: I thank the member very much for asking that question. That is a matter of interpretation. Once again, those opposite like to make assumptions - and they are wrong. If the member for Glendalough looks at the figures a little more carefully - I recommend she does because of all the members on the other side, at least she is genuine in what she seeks to do and in how she deals with her shadow portfolio responsibilities - she will see how the questions were framed. She will find the general public opinion about public transport was that, yes, people believed public transport matters have - I cannot remember the exact word -

Mrs Roberts: Fewer people thought it was excellent or very good.

Mr COWAN: That is right. However, another question was asked as well; that is, "Do you use the public transport system regularly?" The regular users of the public transport service said that it is better than it has ever been.

Mrs Roberts: It is not true.

Mr COWAN: Yes, it is true.

Mrs Roberts: The figures are these: In the early part of your term in office 42 per cent of heavy users rated public transport as excellent or very good. In this survey only 19 per cent said that public transport had improved since privatisation. They are the facts. They were tabled in my electorate by your Premier.

Mr COWAN: I do not think that is quite right. Once again, the figures are being manipulated. We all know in politics we deal with perception, not reality. The perception of the general public is that public transport is awful, and we must do something about that.

Mr Shave: The reality or the perception?

Mr COWAN: I am talking about the perception of the public, which is that public transport is awful. However, when we asked the people who use it, the reality is that they believe those services are better than they have ever been. It does not matter how those opposite try to disguise that -

Mrs Roberts: Will you give me the figures that show that?

Mr COWAN: I am quite happy to do that. It will take me some time to recover them because I do not have access to them here today. I will be delighted to provide the member with the figures that indicate the difference between perception and reality. It is very easy for people who say that -

Mr Brown: Not for perception and reality.

Mr COWAN: I will be delighted to supply the figures that show public perception is wrong, as long as the member gives me his undertaking that he believes my figures.

Mr Brown: You have ducked the question.

Mr COWAN: I have not. For the benefit of those opposite, I repeat: I will provide the information that demonstrates that what I am saying is right; namely, that, in general, a questionnaire placed in the public domain reveals that those who do not use the public transport service believe the service is not as acceptable or as good as it was, but those people who use the public transport service say that it is better. That is what I have said I will do, and I will do it. Let us get back to the amendment.

Mr Brown: Can you do it in the next week?

Mr COWAN: Yes

Mr Thomas: Will you go back to the Merredin by public transport next week?

Mr COWAN: Very fortunately for me, I am returning to Merredin tomorrow and I cannot wait for tomorrow to arrive!

The DEPUTY SPEAKER: Order! Perhaps the Deputy Premier could direct his remarks to the Chair.

Mr COWAN: I always address my remarks to the Chair and I am happy to take the odd interjection. I was asked whether I would take public transport back to Merredin, for which only one service is available. That is the *Prospector* and for the first time in an age it has been recognised that the *Prospector* is 25 years old. Somebody must do something about improving the *Prospector* service. The Minister for Transport, whom many people want to denigrate, has recognised that the service needs to be improved with better rolling stock, and he has recognised the increased demand for the service. People are utilising the service on the Avon link. It would have warmed the heart of the member for Glendalough to be at the station at Northam when 1 000 people cheered the Avon link diesel car in. That is probably the first time in an age that anyone has thought about providing such an additional service.

The claim that services have diminished is wrong. For the first time in 35 years an opportunity exists for public transport bus customers to compare bus operators and services provided in different areas. A savings to the State of something like $40 million per annum is involved, and that saving will not accrue to the State; it will be paid back into the public transport services. Already, the Government with just those contracts already offered to different areas, such as the Swan Valley, has put in place 14 new bus services in new areas.

That record can never be disputed. In addition, the Government will be spending some of those savings on new buses which will provide better access to disabled people. No-one could complain about the provision of the central area transit bus service.

Mr Kobelke: It was largely paid for by commonwealth money in the Better Cities program.

Mr COWAN: It was not largely paid for by commonwealth money; it was a partnership. Better Cities money went in, as did state money. Does the member have so little pride in his State that he will not acknowledge that the State contributed to that significant service?

Mr Kobelke: Will you answer a question?

Mr COWAN: I would love to, but I must do so in private; my time has almost expired.

I sat for four years through the privatisation of the interstate rail system. It was not a question of changing, as it was privatised. This was supported by members opposite - what a mob of hypocrites!

[The member's time expired.]

DR WATSON (Kenwick) [3.35 pm]: The other day the Industrial Relations Commissioner, Bob Laing, blasted the Government and reprimanded the Art Gallery of Western Australia for not looking after its workers in its move to the private sector. Security guards at the Art Gallery, who had been employed there for more than three years at a weekly pay rate of $435, will now receive $388 a week under the private sector award. Similarly, MetroBus drivers now earning $620 a week, pre-tax, for a 40-hour week, will receive$406, pre-tax, for a 38-hour week with Swan Transit. Could members bear a $200 a week reduction in their pay? I could not. How can we expect these men and women to do that? Issues are involved apart from the drop in pay of $200. Young bus drivers have mortgages and young families to consider. Of course they do not see a choice. They know that people earning this paltry amount are not given a mortgage by the banks. Older people have children wanting a tertiary education, and they will not be able to support them under the terms which Amanda Vanstone recently announced. Many concerned and frightened people know where to lay the blame.

Another set of issues relates to the contract. I am told that drivers are given between one and three days' training by a current MetroBus driver - they see that in itself as a cheek, and so do I. Also, private drivers do not have to undergo a police check as occurs with MetroBus drivers. Members must acknowledge that issues of public safety arise with both the standard of driver training and the fact that drivers are not checked by the police.

Transport services are a huge issue for people in my electorate. South of Canning Highway and west of Welshpool Road, all MetroBus services are to be contracted to Swan Transit. MetroBus currently operates in Gosnells and Southern River where my constituents are dependent on public transport, and they value the bus service and its connection with the train services. The benefit to the public cannot be overestimated. It is all very well for the Minister for Planning to outline cost benefits but we have not been able to aggregate "disbenefits" and other costs.

The Auditor General in his report on privatisation made recommendations about contracting out, outsourcing or competitive tendering - call it whatever one likes, it means the same thing; that is, that the Government is giving away its control. The Auditor General said that a standard for best practice in contracting must be developed with fairness, impartiality and transparency. That financial cost must be identified and quantified, and must include the cost to the individual workers concerned. I could not do with $200 a week less in my pay packet, and I doubt whether any member opposite could either.

Amendment (words to be deleted) put and a division taken with the following result -

Ayes (29)

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

Noes (20)

Ms Anwyl	Mrs Hallahan	Mr Ripper
Mr M. Barnett	Mrs Henderson	Mrs Roberts
Mr Brown	Mr Kobelke	Mr D.L. Smith
Mr Catania	Mr Leahy	Mr Thomas
Dr Edwards	Mr Marlborough	Dr Watson
Mr Graham	Mr McGinty	Ms Warnock *(Teller)*
Mr Grill	Mr Riebeling	

Pairs

Mr Bradshaw	Mr Bridge
Mr Ainsworth	Dr Gallop
Mr Nicholls	Mr Cunningham

Amendment thus passed.

Amendment (words to be substituted) put and a division taken with the following result -

Ayes (29)

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

Noes (20)

Ms Anwyl	Mr Grill	Mr Ripper
Mr Brown	Mrs Hallahan	Mrs Roberts
Mr Catania	Mrs Henderson	Mr D.L. Smith
Mr Cunningham	Mr Kobelke	Mr Thomas
Dr Edwards	Mr Marlborough	Dr Watson
Dr Gallop	Mr McGinty	Ms Warnock *(Teller)*
Mr Graham	Mr Riebeling	

Pairs

Mr Bradshaw	Mr M. Barnett
Mr Nicholls	Mr Leahy
Mr Ainsworth	Mr Bridge

Question thus passed.

Motion, as Amended

Question put and a division taken with the following result -

Ayes (29)

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

Noes (20)

Ms Anwyl	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mrs Henderson	Mrs Roberts
Mr Cunningham	Mr Kobelke	Mr D.L. Smith
Dr Edwards	Mr Leahy	Dr Watson
Dr Gallop	Mr Marlborough	Ms Warnock *(Teller)*
Mr Graham	Mr McGinty	

Pairs

Mr Bradshaw	Mr Thomas
Mr Nicholls	Mr M. Barnett
Mr Ainsworth	Mr Bridge

Question thus passed.

RESERVES BILL

Committee

Resumed from an earlier stage of the sitting.

The Chairman of Committees (Mr Strickland) in the Chair; Mr Kierath (Minister for Lands) in charge of the Bill.

Clause 10: Reserve No. 36996 (D'Entrecasteaux National Park) -

Progress was reported on the clause after the following amendment had been moved -

Page 5, after line 5 - To insert the following -

(3) Subsections (1) and (2) come into operation on a date to be fixed by resolution of both Houses of Parliament.

(4) No motion for the resolution provided for in subsection (3) may be moved in either House before there is laid before it -

(a) a report from the CSIRO relating to the hydrology of the Lake Jasper area and the likely impact of mining at Jangardup South on this lake;

(b) an environmental assessment of the proposal to mine in this area at the level of an ERMP;

(c) the ministerial conditions arising from the ERMP including conditions that Nelson Locations 13471, 13472, 13473, 13474, 7226 and 12897 be revegetated to acceptable native vegetation standards which will allow those locations to be incorporated in the D'Entrecasteaux National Park at a later date; and

(d) a statement by the proponent outlining its commitments to secondary processing of the mineral sands mind.

Mr KOBELKE : I support the amendment. Proposed subclause (3) states that subsections (1) and (2) should come into operation on a date to be fixed by resolution by both Houses of Parliament. Proposed subclause (4) outlines the four requirements which must be met before a resolution can be passed by both Houses of Parliament. I do not accept the Minister's suggestion this is a chicken and egg situation; that is, we have two different issues - the excision to clear the land and the requirement for environmental assessment - each relying on the other, and it does not matter which we tackle first.

Mr Kierath: That is not what I said at all.

Mr KOBELKE: If I misinterpreted the Minister, I apologise. My view is that the environmental issue must be dealt with thoroughly and properly before we complete the requirement to excise this land from D'Entrecasteaux National Park. Members on this side of the Chamber and also speakers from the Government side stated this was part of the resolution of conflict policy put forward by the previous Labor Government. That is true to some extent, because that policy allows for the excision of land from D'Entrecasteaux National Park for mining purposes; however, it must be in keeping with a range of particular requirements. It is misleading to use the title of the resolution of conflict policy without ticking off the requirements that were laid out in it.

That was covered in the second reading debate; however, it is necessary to make clear that if that range of commitments and procedures is not taken on board, the Government is using the reasoning of the resolution of conflict policy in a misleading way. The policy was aimed at achieving a balance by ensuring that areas of considerable mineral potential were not sterilised by declaring national parks if the potential existed to mine that resource. At the same time it was necessary to ensure that national parks were very special and sacrosanct areas. It did not mean that any area of a national park would eventually be open to mining; it put in place a range of checks and balances. The proposed amendment seeks to ensure that some of those checks and balances are in place so that mining does not proceed without the necessary Commonwealth Scientific and Industrial Research Organisation study, an environmental assessment, an undertaking on the revegetation of the land which is to be returned to the park and a commitment to secondary processing of the mineral sands that could be mined from this area.

The company is obviously in a difficult position. It has expended a large sum of money exploring D'Entrecasteaux National Park and proving up what appears to be a valuable resource. It does not wish to commit itself to the expense of further studies if there is no potential to proceed with the mine. We need a clear understanding of whether this

is a no-go area or an area with a mining resource and the various procedures of environmental assessment will allow the company to utilise that resource and establish a productive mine.

Mr KIERATH: I do not share the view of the member for Maylands that the Environmental Protection Authority cannot approve or disapprove development, and all it can do is impose conditions. The EPA could impose such conditions that development could not proceed.

Dr Edwards: The Chairman of the EPA has said that his reading of the Environmental Protection Act is that he cannot do that.

Mr KIERATH: I do not believe that is the case. In my eight years in this place the EPA has decided that a number of projects should not go ahead.

Dr Edwards: Not in the past few years.

Mr KIERATH: The member for Maylands will acknowledge that the EPA could impose such onerous conditions that there was no possible way a project could proceed because it would not be commercially viable. That avenue is open to the EPA, even if it does not have the power to disapprove. The EPA can carry out its function legitimately and the comments of the member for Maylands are side issues. The advice to me is that the EPA determines the level of assessment. The Minister of the day can increase the level of assessment, but cannot downgrade it. That can be accommodated by the Minister's assurances or otherwise. I agree with the member for Maylands that this is a significant and sensitive area. That is borne out by the commitments the Government has given.

The member for South Perth raised the issue of dieback. Issues such as dieback and secondary processing are not appropriately included in a Reserves Bill. Those issues will be determined when the decision to mine is made. The member for South Perth may not be aware that I reiterated the undertaking given by the Minister in the other place that the Commonwealth Scientific and Industrial Research Organisation report relating to hydrology of the Lake Jasper area and the impact of mining at Jangardup south on that lake, the environmental assessment, and the ministerial conditions would be tabled in both Chambers before mining is allowed to proceed. The Government agrees with paragraphs (a) (b) and (c) of the amendment. The Minister in the other place and I have given commitments on those issues. We do not agree on the issue of secondary processing.

Mr Pendal: Or on dieback, which is probably the most serious issue of the lot.

Mr KIERATH: The member for Warren advised me that 2 000 acres of land adjacent to Lake Jasper had already been cleared; dieback is endemic in the area, and studies have taken place. I support the member's view on dieback. However, the Reserves Bill allows further study to occur.

That brings me to the points made by the member for Nollamara. I was trying to say that as the cost of the reports and assessments must be borne by the company, it will not be prepared to commit those resources unless it has some security that mining can proceed. It is possible, if we agreed to this amendment, that the company could satisfy all the reports and assessments and still not get the go ahead. When I referred to the chicken and egg situation, I meant that we must go to the next stage to see whether the project is viable, and the decision to mine will be taken from there subject to conditions.

Mr RIPPER : The Minister does not appreciate the point he has been making; that is, it is a question of timing. The Minister is saying that the Government will not accept the amendment, but he will undertake to table the information we seek. The Opposition's point is that the Parliament should not give final approval to the excision until it receives this information.

Mr Kierath: The information will not be provided unless we go down this path.

Mr RIPPER: The Minister is saying that we should give approval now and then the information will be provided. I understand the company's viewpoint; it fears that the Parliament will decide not to allow the excision and will simply make an ideological political decision that, as it is in a national park, the company cannot mine.

We on this side of politics can assure the company that we do not believe the excision should not occur simply because it is in a national park. We are concerned about environmental impacts, particularly on Lake Jasper. If we are satisfied Lake Jasper will be protected, the Opposition will approve the excision in accordance with the resolution of conflict policy we adopted when we were in government. We can give that assurance to provide security to the mining company and I think the Government can also give an assurance that it will not make an ideological decision that simply because it is in a national park the mine cannot go ahead. The Opposition is saying, "Show us that Lake Jasper will not be affected by the mining before we are asked to give final approval to the excision." The Government is saying, "Give final approval now and we will provide the information later. "

Mr Kierath: We are saying we will make available all the reports and the conditions. I am sure that if you thought it was wrong and we had failed in our duty, you would take appropriate parliamentary action to expose us for that.

Mr RIPPER: It may be our side of politics that tables the information because the environmental assessment will not be completed until after the next election!

Mr Kierath: If that is the case - I do not agree with it - your Minister for Mines will not approve the mining.

Dr EDWARDS : I take issue with some of the things the Minister said. I had a conversation with the Chairman of the Environmental Protection Authority, who told me that under EPA policy the proposal could not be stopped and that effectively the EPA is there to pass every proposal, but the safeguard comes with the conditions that are imposed. The Minister said that if the EPA thought a project should not go ahead, it could impose conditions that would make it unviable. Although that is feasible, I do not think that would happen because, morally, the EPA would really want to stop a project.

It concerns me greatly that when the EPA does an assessment it often approves projects but says that certain aspects require further investigation and that the proponent must provide an environmental management plan later. It gives approval without examining all the information and all aspects of projects. An environmental management plan undertaken further down the track does not have to be publicly circulated or undergo the same process. The department casts its eye over proposals and advises the company whether it approves of them.

One example is the development in Minim Cove at Mosman Park where an EMP on testing had to be provided by the developer after the site was cleared. In the list of heavy metals and contaminants to be tested for, one of the metals was left off. I am sure it was just an oversight, but the difficulty is that nobody picked it up. It was detected only when a member of the community, who has a particular interest in the site, got hold of that EMP. He compared the list with what contaminants were on site and saw the deficiency and subsequently the list was amended. When the process does not operate properly deficiencies occur.

Mr Kierath: If you have a problem with the process of the EPA, the Reserves Bill is not the appropriate vehicle for addressing that.

Dr EDWARDS: The process of the EPA is relevant under this clause. Another example is where the EPA recently approved a project at Mauds Landing north of Coral Bay. Environmental management plans are required for various aspects of that project which raised some eyebrows, to say the least. For instance, the establishment of a coral garden is proposed. In the bulletin put out by the EPA it signalled concerns about the environmental impact of that. However, the EPA goes no further. It says that when the garden is about to be established an environmental management plan must be prepared. The same thing could happen in this situation. It appears that the whole House agrees that Lake Jasper is an extremely valuable part of our national and state estate. Yet it is possible that the EPA, in making what one assumes is the highest level of environmental assessment, may still say that it will not examine the proposal yet, but it will prepare an ERMP -

Mr Kierath: Your words were that it was the highest level of assessment.

Dr EDWARDS: That is right. We want to make sure that all those points are covered.

Another point of which the Government may not be aware is that when the Opposition referred to a report from the Commonwealth Scientific and Industrial Research Organisation it was referring to a broader report than that now being undertaken by the CSIRO. We had a briefing with the CSIRO and its terms of reference for the study are not as broad as those in the amendment. I am pleased the Government has made that commitment. I hope it follows through and tables a much broader report than is being undertaken by the CSIRO for the company. The Opposition believes the study commissioned by the company has some deficiencies. In the briefing I attended, some questions were unable to be answered because the scope of the report was not wide enough. The Opposition's amendment has been worded to reflect our wide range of concerns about Lake Jasper and its hydrology. We believe the CSIRO to be the appropriate body to undertake a study, but the amendment will allow it broader scope than it has at present.

Mr PENDAL : I thank the Minister for his earlier remarks in response to my concerns about dieback. I say again that the scourge of dieback is being treated as somewhat secondary in the whole of this debate when it is probably the primary concern and certainly the prime reason we should be looking a second time before we excise from a national park.

As the Minister said, and has been advised by the Minister for Local Government, the area has been dieback infested for more than 50 years. We are on the verge of allowing the Government to enter a major contract to allow the extraction of mineral sands from a part of Western Australia that is capable of transferring dieback down the line. That seems to run directly counter to the Government's commitments of three years ago. No action has been taken on the creation of a dieback research institute. It was incumbent on the Government to do so. In this case, when

talking about the loss of half of the conservation estate to this disease, we should have been demanding that the Government and the company make a contribution to the management of the D'Entrecasteaux National Park by dieback control and research, but nothing has happened.

If any of the Government's major electoral promises are to be held against it, as it comes to the next election, it will be its inability to address the question of the increased spread of dieback, particularly in our national park estate. We have only one chance. I suspect that we are no further advanced in tackling the problem than we were three or four years ago. In fact, we are worse off than we were three years ago because many people in Western Australia believed the then Liberal and National Party Opposition's commitment to dieback research. They were given encouragement that some serious action would be taken, not only to quarantine, if necessary, further land but also in the active sense of promoting widespread research. On the one hand we might be confronted today with the real choice of opening up more of this land in D'Entrecasteaux National Park for mining, but, on the other hand, maybe we should be quarantining this land. That aspect has not been addressed by the Minister in this debate nor by his colleague, the Minister for Local Government. It is not good enough to say, as the second Minister said, that the area the subject of the clause is devastated by dieback. We know that. Our concern should be that we do not do anything to transfer and enhance the spread of the disease elsewhere in this national park. Dieback has been treated as a secondary issue when it is a primary one.

Again, I urge the Minister to appeal to his colleague, the Minister for the Environment, to discharge the promise made prior to the last election for a dieback research institute, and for the licences to do with the D'Entrecasteaux National Park, the subject of the clause, not to be granted unless they are prepared to make a real contribution to the arrest of the spread of dieback. We are talking about a $300m investment. It will not produce many jobs; it is about 100 jobs. There may be another 100 jobs if the extraction is sufficient to take it to the next stage of synthetic rutile. Over 12 years the project will produce a maximum of 200 jobs, although around $1b investment is involved. I appeal to the Minister to ensure that we address that as a primary consideration, not a secondary one.

Mr KOBELKE : Both sides of the Chamber agree that we are considering a special area which is part of the excision and immediately adjacent to it - Lake Jasper and the wetlands surrounding it. Because of the special and sensitive nature of the area we must ensure that these matters are covered fully and adequately. The Government's position is to minimise the sovereign risk to the company which has a valid interest in the area and has met government approval in proving up the resource. The member for Belmont reflected that we certainly do not wish to place a sovereign risk on the company with the development of the ore body. From the start we have known about the sensitive nature of the area. We need to ensure that if mining proceeds it is on the basis that it will not impact significantly on the special environment of Lake Jasper and the surrounding wetlands; and that the mining activity can be localised to a specific area and be dealt with in a way which does not have implications for the surrounding environment.

The issue of dieback is one of those concerns. I will not say any more about that. Hydrology is an important aspect. The mining will be carried out below the watertable; it will require the dewatering of some areas and the control of water. Important factors include the whole flow of ground water; seepage; and the potential for the pH content to change or other chemical effects; and for the water to move to surrounding areas.

It is not a matter of saying that reports will be undertaken and brought to Parliament. The Government is saying that the excision of the land is simply a matter of clearing the requirements of the Land portfolio. Once that is done, there is no commitment that the mining will proceed. That is conditional upon the other bodies that must give approval. The Minister said that when that is done, and those reports come to Parliament, if we are not happy with the decision by the Government, if we do not like the approvals and reports, we can use the procedures of Parliament to take up the matter. That is not an adequate approach. It would be better to hold up the clause until we have advanced those reports. However, the matter is before this Chamber and we have moved amendments to try to find the middle ground, to find a solution to the issue so that we can show that the Labor Opposition sits at one with the Government on the issue of being willing to open up a small part of the D'Entrecasteaux National Park for mining if there can be clearance on the environmental matters. I see no sovereign risk involved in this stance.

We tend to have a difference with the Government; we think that the environmental assessment and the studies required must be of a level which gives a real guarantee that the go-ahead for mining will not cause detriment to Lake Jasper and the surrounding environment. As the member for Maylands stated, unfortunately the Government has a poor track record. The situation is now developing where the Environmental Protection Authority sees its role as placing conditions on approvals. It does not see itself as stopping projects because the effect on the surrounding environment would be of such consequence that the project should not proceed. The whole approach of the EPA is to say it will impose conditions on the matter, and if they are so stringent that the project cannot proceed - so be it; but that is a different approach from saying we have a special area and the consequences of activities such as mining will be too disastrous for the surrounding environment to allow the project to go ahead. That is not the current

approach. It is simply a matter of imposing conditions on the approval. We have seen a number of examples where those conditions have been inadequate.

Dr EDWARDS : Lake Jasper is an extremely significant Aboriginal heritage site. As the member for South Perth pointed out, Aboriginal people lived on the bottom of the lake when it was a woodland above water level about 4 000 years ago. Funding for the Australian Heritage Commission in the federal Budget is almost gone. How will that impact on this matter, when the Minister says that issues such as Aboriginal heritage will be protected by the Government? The second issue I raise is about water quality.

The DEPUTY CHAIRMAN (Mr Johnson): The member for Maylands is straying from the amendment she has before the Chamber.

Dr EDWARDS: I will relate my comments to the Commonwealth Scientific and Industrial Research Organisation report and return to water quality. When the CSIRO report is done, and presumably the Water and Rivers Commission looks at the report and the EPA comments on it and puts in conditions about water, I hope the auditing that flows through from the environmental review and management program is followed more closely than it is at the moment. Two weeks ago a report appeared in the *Busselton-Margaret Times* about a dredging operation in a mineral sands plant in the south where the hydraulic oil of the dredge had leaked out and 1 200 litres of hydraulic oil had gone into the water.

If the catchment of Lake Jasper is to be in a similar situation with the mine, which will be full of water - the notion is to do it the same way by dredging - such a volume of hydraulic oil leaking again from a dredge at that site would have a severe impact on the catchment of Lake Jasper and undoubtedly it would permeate through to Lake Jasper. Given the extremely high archeological values at the site, we cannot afford to take those risks. We must be reassured that the highest possible level of scrutiny will occur. That is why the Opposition has moved this amendment.

In conclusion I will refer to the Environmental Protection Authority and why the Opposition thinks these safeguards must be written in at this stage of the Reserves Bill. In a number of instances, some of which I have set out already, the level of assessment has been inappropriate. I give as another example stage 1 of Ascot Waters, where no formal environmental assessment was made, even though the area was right on the river, and evidence existed that it was a contaminated site and that polychlorinated biphenyls were buried there. There is no shame in saying that this Parliament wants an environmental assessment set at the highest possible level.

Mr KOBELKE : There are plenty of examples of where under the current Government the level of environmental assessment has not been adequate. Another example is the city northern bypass, which is a major project worth $400m on which no proper environmental assessment was done prior to the commitment to the project.

Mr Kierath: How does that relate to the words of the amendment?

Mr KOBELKE: I am talking about the need for an environmental assessment to come back to this Chamber relating to any approval for mining in this area of D'Entrecasteaux National Park. The key element is the reliability people can place on a verbal undertaking from this Government that the procedures it suggests will be adequate. That comes back to whether the level of environmental assessment will be adequate and whether proper account will be taken of the environmental assessment.

In a number of areas the environmental assessment suggested that the project should not go ahead on the proposed basis; yet for other reasons, whether political or economic, the environmental assessment was not complied with. Plenty of examples of that have occurred over the past couple of years. The Government should not clear this excision through the Parliament and then look at the requirements for a CSIRO report, the ERMP and revegetation. If this place judges that the project can go ahead and gives it the tick, those documents will come back to the Parliament and it will be open to the Parliament to adopt whatever procedures are available. That is simply not acceptable, primarily because the Government does not have the credentials in this area.

In the past it has not been believable. This amendment will give an option that is workable. I will accept that it has not been standard practice in the past; however, it would deliver for the company an assurance that both major parties in this Parliament were not opposed to the mine on the basis that the minesite was in a national park. It would put on the record that it was only because of our concerns about the important environmental heritage in the area that these matters must be addressed adequately.

Therefore, the amendment requires that three things be done: The report of the CSIRO relating to the hydrology of the area be made available; the environmental assessment for the proposed mine be at the level of an ERMP - Parliament would have a copy of that report; and standards be in place for the revegetation of that area which would be included in the park. I do not see any problem with that.

For the Minister to suggest that the procedures of the Parliament can be used afterwards does not give a guarantee: This amendment does. It gives a guarantee that the standards will be met, and debate on the standards can be held prior to agreeing to this excision. The excision is the only link in the chain that comes under the control of the Parliament. Once this Bill is agreed to, the executive power of government holds control of the issue. I agree that a range of procedures must be gone through and a range of Statutes must be taken account of. However, the executive arm of government will have the say on whether those matters meet the required standard. The Parliament will simply be on the sideline. The Parliament's role is to make a decision on an issue as important as this. The only available mechanism by which to have that say is this clause that allows for excision from D'Entrecasteaux National Park.

I refer also to the requirement contained in paragraph (d) of the amendment; that is, that the statement by the proponent be also presented, outlining its commitments to the secondary processing of the mineral sands mined. Members opposite have said that that is not possible. I think it is possible.

Dr EDWARDS : I will follow-up the remarks by the member for South Perth about the presence of dieback at this site. I hope that is an issue that is picked up in detail by the proposed ERMP.

Mr Kierath: Where is dieback in your amendment?

Dr EDWARDS: Dieback would be covered under the environmental assessment of the proposal.

Mr Kierath: Why didn't you include a clause on that in the amendment?

Dr EDWARDS: It is adequately covered by the words "environmental assessment". The company has made available the studies it has done on dieback, and the maps of its occurrence are alarming. They indicate that dieback occurs throughout the area. The Opposition is happy that the company has at least done those studies, and for that reason it is not spelt out under the environmental assessment provision in the amendment. We know from the company's communications with the Environmental Protection Authority that that will be one of the matters that are picked up. Nevertheless, not enough is being done about dieback.

I concur with the member for South Perth that there seems to be an attitude that virtually the whole of that national park is affected by dieback and, therefore, we will not worry about it. In other parts of the State that seems to have occurred. On one reserve further north the locks have been taken off the gate that used to prohibit people from going through the area. It is almost as though the Department of Conservation and Land Management has decided to give up on the fight on dieback. In this instance it said that there was no use having the lock because people were getting in. When the ERMP is finally released I hope that dieback is addressed in a chapter on its own and that we see better attention to the detail of it and to preventing its spread. With the excision under this proposal comes a real threat that dieback will spread even further.

Mr KOBELKE : I wish to continue my remarks in respect of paragraph (d) of the amendment, which relates to the requirement that a statement by the proponent outlining its commitment to secondary processing of mineral sands mined be presented to the Parliament prior to its giving final approval for the excision of the land contained in this clause.

It is a fairly common occurrence that state agreement Acts contain a requirement for companies to look to secondary processing of the ores being mined. We would all be well aware that while that has been a requirement of specific Acts, in almost no cases has it been proceeded with. We are not providing for a legislative requirement for secondary processing, but simply that a statement be presented by the proponent outlining its commitment to such processing. It puts an onus on the company to say, "We have considered what we can do in the area of secondary processing." It would not put a stop on the mine if the market for certain products at the time had changed and made the situation uneconomic. It would put a responsibility on the company to consider the highest possible level of secondary processing that can be carried out in this State. There is no binding requirement to proceed with secondary processing; it simply requires a commitment to see what can be done. That is not particularly onerous and it is also a key element of the resolution of conflict policy.

Members opposite have claimed that this excision is in keeping with that resolution of conflict policy. It is only in keeping if it contains paragraph (d); it is one of the requirements of that resolution of conflict policy. This amendment provides a way out for this Government. We would provide for a clear statement from the Parliament to the company that we would like it to proceed with mining if the necessary environmental studies can be done and the guarantees are in place in relation to the ecology of that area, particularly Lake Jasper. We hope the Government will consider supporting this amendment so that we can find a way around what seems to be an impasse.

The Minister in another place in speaking to this amendment said that the Government was quite willing to take up this proposal, as long as it was after the passage of the Reserves Bill so that the excision could take place. However,

in large part, the Minister was simply reading the amendment now before us, which was also moved in another place, and giving an undertaking that these things could be done. An undertaking by a Minister of this Government in the area of environmental assessment unfortunately is not worth very much. When the Minister in another place was asked to table the letter that he was using to make those statements, he declined on the basis that it was a confidential document. That does not engender much confidence that this Government will be totally open and accountable in relation to the range of issues that will surround any approval for mining in this area. That adds to the lack of confidence in this Government when it comes to assessment issues. We hope the Government will think very hard about this. It gives it a way out. As I have indicated, is not a common practice to put a provision such as this in the Reserves Bill. It provides a means by which to ensure that mining is given every opportunity to proceed and for the deposit to be exploited, but it does not put at risk a very special part of our State - a part of environmental heritage that cannot be put in jeopardy.

Mr KIERATH : This House has passed appropriate legislation to cover approvals for mining. We have also passed legislation covering environmental assessment. Again we have said that legislatively this is where the responsibility lies. This is a reserves Bill; it is not an environmental assessment Bill, a secondary processing Bill, a dieback Bill or a conservation and land management Bill. We have tried, wherever possible, to consider the Opposition's position, and I appreciate the comments from members opposite.

We have said that we do not support proposed subclauses (3) and (4). We want surety of title. To demonstrate our bona fides we were prepared to give an undertaking to accept paragraphs (a), (b) and (c) word for word. There were no tricks.

Mr Kobelke: And you still are?

Mr KIERATH: Yes. Paragraph (d) relates to a statement about secondary processing. Again, this is not appropriate in a reserves Bill. This Bill changes the classification of crown land. All the other things that the member wants covered are dealt with in other legislation. We are not trying to duck away from this; we are simply saying that this is not the appropriate place to put those provisions. We accept the member's sentiments and we have tried to accommodate them, even to the point of using the Opposition's words.

Amendment put and a division taken with the following result -

Ayes (22)

Ms Anwyl	Mr Grill	Mr Riebeling
Mr M. Barnett	Mrs Hallahan	Mr Ripper
Mr Catania	Mr Kobelke	Mrs Roberts
Dr Constable	Mr Leahy	Mr D.L. Smith
Mr Cunningham	Mr Marlborough	Mr Thomas
Dr Edwards	Mr McGinty	Dr Watson
Dr Gallop	Mr Pendal	Ms Warnock *(Teller)*
Mr Graham		

Noes (27)

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

Pairs

Mr Brown	Mr Ainsworth
Dr Gallop	Mr Bradshaw
Mrs Henderson	Mr Nicholls

Amendment thus negatived.

MR RIPPER : Regrettably the Government has used its numbers in this Chamber to defeat the amendment moved by the Opposition. That leaves the Opposition with no choice but to vote against the clause. I emphasise that the only reason we intend to vote against the excision clause is the defeat of our amendment. We do not oppose the principle of an excision from the D'Entrecasteaux National Park, provided it is in accord with the resolution of conflict policy which we adopted when we were in government. We are concerned about the potential for a deleterious impact on Lake Jasper. The Opposition wanted to be satisfied that there would be no adverse impact on Lake Jasper before it gave final approval on the excision to allow for the Jangardup South mine. The Chamber has defeated the amendment which would have ensured that Parliament was provided with those environmental matters before it gave final approval to the implementation of the provision. In those circumstances we have no alternative but to oppose the excision.

We do not oppose the excision on the grounds that we are totally opposed to excision from national parks for mining. We are for the most part opposed to excision from national parks for mining, but we stick by our resolution of conflict policy which provided in certain very limited circumstances for those excisions to occur. The D'Entrecasteaux National Park excision is the type that was specifically contemplated in that resolution of conflict policy. That resolution of conflict policy, however, provided that any excision must occur under stringent environmental protection procedures. It was in the pursuit of that condition that the shadow Minister for the Environment moved the amendment that has been defeated. We do not want to give final approval to excision unless we can have placed before the Parliament those environmental assurances that we have been seeking. The Minister has said, "We will give you those assurances. We will table all the information that you have been seeking." However, that will be after the fact. We want the information before Parliament gives final approval to the excision. We think that we can give adequate security to the mining company involved by making a declaration that for our part this is not an ideological decision based on the fact that the area in question is in a national park. We are not basing our position on that ideological principle but on the potential for practical deleterious impacts to Lake Jasper. If we can be assured that the mine project is environmentally sound and that there will not be any deleterious impact on Lake Jasper, we will add our support to the excision. This is in accordance with the resolution of conflict policy.

The Government can give the same assurance to the mining company. Given that both the Government and the Opposition are in a position to give that assurance, that deals to a large extent with the security of title issue, which is of concern to the mining company. The company does not want to be in a position where it faces a political risk that the project could be torpedoed because it is in a national park. The Government and Opposition can remove that risk as a result of statements made today. It is a great pity that the Government does not accept our amendment, because it places us in a position where we are forced to oppose the clause.

Clause put and a division taken with the following result -

Ayes (26)

Mr C.J. Barnett	Mr Kierath	Mr W. Smith
Mr Blaikie	Mr Lewis	Mr Strickland
Mr Board	Mr Marshall	Mr Trenorden
Mr Court	Mr McNee	Mr Tubby
Mr Cowan	Mr Minson	Dr Turnbull
Mr Day	Mr Osborne	Mrs van de Klashorst
Mrs Edwardes	Mrs Parker	Mr Wiese
Dr Hames	Mr Prince	Mr Bloffwitch *(Teller)*
Mr House	Mr Shave	

Noes (21)

Ms Anwyl	Mr Grill	Mr Riebeling
Mr Brown	Mrs Hallahan	Mr Ripper
Mr Catania	Mr Kobelke	Mrs Roberts
Dr Constable	Mr Leahy	Mr D.L. Smith
Dr Edwards	Mr Marlborough	Mr Thomas
Dr Gallop	Mr McGinty	Dr Watson
Mr Graham	Mr Pendal	Ms Warnock *(Teller)*

Pairs

Mr Omodei	Mr Cunningham
Mr Bradshaw	Mr M. Barnett
Mr Nicholls	Mr Bridge
Mr Ainsworth	Mrs Henderson

Clause thus passed.

Clauses 11 to 22 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Kierath (Minister for Lands), and passed.

SUBIACO REDEVELOPMENT AUTHORITY

Tabling of Authority

MR LEWIS (Applecross - Minister for Planning) [4.51 pm]: Section 22(2)(a) of the Subiaco Redevelopment Act requires the tabling of ministerial approval for acquisition of property in excess of a value of $1m. I table my approval for the acquisition of the Heytesbury site and apologise to the House.

Mrs Roberts: It is a bit late.

Mr LEWIS: It is a couple of days late. However, that is because of an administrative problem I had with the Subiaco Redevelopment Authority.

[See paper No 477.]

REVENUE LAWS AMENDMENT (ASSESSMENT) BILL (No 2)

Allocation of Time

MR C.J. BARNETT (Cottesloe - Leader of the House) [4.52 pm]: I move -

That the Revenue Laws Amendment (Assessment) Bill (No 2) be no longer subject to an allocation of time.

I remove that Bill from the sessional order time management motion in recognition of the time spent yesterday on debating the censure motion.

Question put and passed.

Second Reading

Resumed from 29 August.

MR McGINTY (Fremantle - Leader of the Opposition) [4.53 pm]: I will make a few comments on this Bill, which in a general sense the Opposition supports. However, some issues require comment. Firstly, I ask: What are this Government's priorities? This legislation will put money into the pockets of those people who least need or deserve assistance from the Government. This legislation will cost the Government $7.6m in lost revenue as a result of granting tax breaks to people in what I believe to be fairly unworthy circumstances.

I refer first to part 4 of the legislation, which deals with land tax assessment. It is proposed by this amendment to forgo revenue of $2.6m to provide a 50 per cent land tax assessment rebate or discount to certain primary producers in the metropolitan area who earn less than one-third of their net income from primary industry. Who in the metropolitan area fits into that category of people and engages in some form of primary industry, but derives only a small proportion of his income from that primary industry activity? The people who immediately spring to mind are the hobby farmers. Why should the Government give hobby farmers a tax break to the extent of $2.6m a year by granting them a 50 per cent concession on the land tax for which they are otherwise liable? The other people whom I think may fit into this category are horse trainers or people who use their properties for equestrian purposes. I would be interested to hear from the Treasurer what other groups will benefit from this assessment.

The notes provided with the legislation do not identify who the beneficiaries of this $2.6m will be, other than to describe them as people who have property which is used for primary industry production within the metropolitan area, and whose income from that primary production anywhere in the State is less than one-third of their total income. It is important that the House know who are the beneficiaries. If, as I suspect, they are the hobby farmers with farms in the metropolitan area, the question that must be asked is why should hobby farmers be given a tax break

or have money put into their pockets when there are so many other needy groups in this State who could do an awful lot of good with $2.6m?

Mr Tubby: Some are my constituents. They are trying to get a rural enterprise up and running on a small area of land; for example, farming flowers. There are a range of intensive farming operations that can take place on rural properties within the metropolitan area and they need to have other income to put into them.

Mr McGINTY: Is it a tax break for them to get the businesses established?

Mr Tubby: In some cases, yes.

Mr McGINTY: I would have no objection to a seasonal or a short term tax break, for example, if a year's flower crop were destroyed by a storm. They are legitimate primary producers and the circumstances are exceptional. My understanding of the legislation is that those people who are subject to those seasonal fluctuations can apply to the tax commissioner who has a discretion to continue the land tax concession for people in those circumstances. A starting up exercise could be equated with the seasonal fluctuation problem and those people could be granted a rebate. However, that is not what this part of the Bill is about. It is far more all encompassing.

Mr Court: We are talking about the metropolitan region, not the metropolitan area.

Mr McGINTY: The region extends how far?

Mr Court: I will find out.

Mr Tubby: I think it extends to Keysbrook in my electorate and the electorates of the members for Swan Hills and Joondalup.

Mr McGINTY: So, there are outer metropolitan areas that are not in the metropolitan area, but are in the metropolitan region.

Mr Court: Yes. It does not cover hobby farmers because they are not in the primary production business. Horse trainers do not get exemptions because they do not fit into primary production. Horse breeders do. The definition of "primary production" includes aquaculture. That comes under the definition of primary producers.

Mr McGINTY: This will avoid the need for a Committee debate. Perhaps the Treasurer can obtain some advice from his adviser to answer my queries.

Mr Court: Bill Sullivan is here.

Mr McGINTY: Is the Treasurer saying that people engaged in aquaculture will benefit from this concession?

Mr Court: I will get a list of the people who will be beneficiaries.

Mr Tubby: There are a lot of people in my area who have dams which they are stocking with fish, marron and so on. It is a survival proposition but they cannot make a complete living from it and most have another job. It is a benefit to the State, and this legislation is an attempt to give them a tax break.

Mr McGINTY: I can understand a dam being stocked. It would be very interesting to know why the traditional test that one-third of income must be derived from that source is no longer acceptable.

Mr Court: I have a list of some of the activities that qualify for this concession. They are: Aquaculture, silviculture, reforestation, grazing, horse breeding, horticulture, viticulture, apiculture, pig raising and poultry farming. The problem is that some of these people are genuine primary producers but they do not meet the income test.

Mr McGINTY: I am exploring this issue in relation to the notion of a person being a genuine primary producer. I raised the question of hobby farmers because they possibly genuinely produce from their hobby farms. What is the mechanism to ensure they do not benefit from this concession?

Mr Court: They do not meet the income test.

Mr McGINTY: I thought that was no longer applicable to claim the 50 per cent concession. I query the way in which the test will be applied. For example, a person might have 100 acres at Gidgegannup on which he plants blue gums as a reforestation project. In reality it is a holding operation because the land is an investment for 10 or 15 years down the track. What would be the situation in that case? I do not understand the dividing line and where the concession will cut in.

Mr Court: I said earlier that aquaculture was included in the definitions, but I was wrong. It is not in the list. I will obtain some information about hobby farms.

Mr McGINTY: And the cut off point.

Mr Court: I know that hobby farmers do not get any tax benefits because I am one of them.

Mr Tubby: It also refers to regional centres and the areas on the town boundaries.

Mr McGINTY: Under this proposal will it be applied to the outlying areas of country towns?

Mr Bloffwitch: Yes. For example, Geraldton will be covered. A lot of these people are very successful but they do not meet the income test and they do not qualify for the concession.

Mr Court: The hobby farms are ruled out because the concession will apply only to businesses that use the land on a commercial basis to produce income to the user from the sale of produce or stock. The revenue people will make a determination as to whether the business is being run on a commercial basis. If, for example, someone proves to the revenue department that his property has been fully planted with trees for reforestation and it is being used on a commercial basis, but then later decides to subdivide the property to make money, there is a claw-back provision for five years. That is, land tax can be claimed back for the previous five years if a concession has been granted during that period and the business no longer complies with the definition.

Mr McGINTY: Hypothetically, if a person had a weekender on 10 acres in Gidgegannup with an acre of cherry trees from which cherries were picked and sold on the market each December, would that person qualify?

Mr Court: That is exactly the situation I am in. I have 15 acres on which I keep horses and that sort of stuff but the property does not qualify. It is not a commercial business and I must pay full land tax. If the Leader of the Opposition would like to buy it, I will give him a good deal.

Mr McGINTY: I am sure it would be out of my price range. Is the Treasurer saying that even if commercial production were taking place and the product were sold on the market, the property would not qualify for that concession?

Mr Court: Yes.

Mr McGINTY: That satisfies my queries with regard to the 50 per cent land tax discount for primary producers in the metropolitan area who earn less than one-third of their net income from primary production.

I seek elaboration on only three areas of this Bill. The second area is the stamp duty relief for corporate reconstruction. I am aware that in this year's state Budget the Treasurer announced that this stamp duty relief would be afforded to corporations that decide to restructure to enable them to operate with greater efficiency. It is interesting to note that the actual impact on revenue of this tax concession to the corporate sector will be $5m a year. It is also interesting to note that a significant increase in the forgone revenue is expected because people who currently do not restructure because of the impact of stamp duty, are more likely to take advantage of the restructuring provisions without stamp duty in the future. Therefore, I accept that the real revenue forgone is $5m although I anticipate, as does the Treasurer, that this amount will grow significantly in the years ahead as corporations take advantage of the stamp duty exemption in the case of reconstruction. I also appreciate that this provision will exempt corporations from the payment of stamp duty where the transfer of property occurs between commonly owned companies and, therefore, has a limited effect.

I appreciate the argument that stamp duty can be seen as a barrier to corporate restructuring and, therefore, the efficiency of certain corporate entities. I seek advice from the Treasurer on one issue. I am concerned that this stamp duty exemption may well encourage an avoidance factor. For example, a far sighted corporation might establish a string of shelf companies, and if one of the companies looked as though it would fail somewhere down the track, the assets could be transferred from company A to company B without the payment of stamp duty. Therefore, if company A went into liquidation it would avoid the liability to pay the creditors involved. A major corporation which was owed money by that company would have a form of security over the assets of that company, so even if the assets were transferred from that company to company B and then to company C, the corporation would be able to exercise that security; therefore, the effect on major corporations would not be great. However, I am concerned about the trade creditors, the smaller people, who do not have security over the assets of a company. If the same practice was engaged in and company A went into liquidation, having transferred its assets to company B, the unsecured creditors would not have any comeback. This provision may encourage a company to transfer assets as it heads towards liquidation in order to avoid its liabilities.

I appreciate that the Commissioner of State Taxation must be satisfied that a genuine reconstruction of the company has taken place and that it has not been done for the purpose of avoidance. However, quite often these things will not become apparent until after the event. I am concerned that an action by a company might appear on the surface

at the time that it was done to be a genuine reconstruction but will ultimately be proved to be nothing more than an attempt by that company to avoid its responsibilities.

Those are my concerns about this proposal to allow stamp duty relief for corporate reconstructions. I do not know whether there is an answer to that problem.

Mr Court: As spelt out in the second reading speech, there is concern that it may be used as an asset-stripping device, but companies must meet the three year pretransfer association test and must remain associated for five years after the date to which the exemption applies. Failure to meet the post-transfer test will void the exemption and trigger clawback for the duty, plus a penalty component. You are asking how do we claw back the money if the parties send the company broke.

Mr McGINTY: Yes. As I read the legislation, it works in this way: The test is whether the companies have been associated for three years beforehand and whether they retain that association for five years afterwards. It is not whether it was discovered that in reality it was an avoidance technique - a con that was put over the commissioner at the time that the restructuring took place. If there could be a clawback for the stamp duty if it was discovered subsequently that the restructuring was a rort, that would be the end of my problem; but to simply maintain the association is of no consequence.

Mr Court: The companies must have a common shareholding and voting control of 90 per cent or more to be viewed as associated.

Mr McGINTY: My concern is not the association. That provision is fine, because only a very long sighted company would set up another corporation to which it could transfer assets three years in advance and then retain it for five years afterwards. It is more the nature of the restructuring that causes me concern. If the three and the five year time factors were met, we might still be left with the problem of the nature of the restructuring if subsequent to the restructuring it was shown to be a sham, and in those circumstances there should be a clawback provision so that the stamp duty exemption could be nullified retrospectively. If that were done, I would be quite content; but I do not think the provision of a time factor for associated companies is enough in these circumstances.

Mr Court: I will deal with the second point first: The companies must make a statement to the commissioner about what they intend to do, and if they do not do what they said in their statement to the commissioner and if it does become a rort, penalties can be applied. With regard to how to get the money back down the track, protection exists via the Corporations Law. The creditor can seek the winding up of the company, and the liquidator can unwind the transaction so that the stamp duty payment has a preferred position, so to speak.

Mr McGINTY: The liquidator can unwind the restructuring?

Mr Court: No. The liquidator can unwind the transaction which has taken place to get back to the point where the stamp duty must be paid. With regard to the period applicable to a transaction for the purpose of defeating creditors, the longest period applicable to uncommercial transactions and unfair practices is 10 years, ending on the relation back day. It applies where the company became a party to the uncommercial transaction or unfair preference, and any of its purposes was the purpose of defeating, delaying or interfering with the rights of any or all of its creditors on a winding up. Therefore, if they used the tack that you are talking about, they would get caught under the Corporations Law.

Mr McGINTY: That seems to cover it, but is there any concern that there may be a loophole here that can be exploited for the purpose of avoiding liabilities?

Mr Court: I will not say no, because someone will find one! We have spent a lot of time trying to make sure that we have covered all those loopholes, but there are many steps that they must go through, including convincing the commissioner that a proper restructuring has taken place, and if they rort the system down the track, they face pretty severe penalties; therefore, they would have to be pretty keen to want to go through with it.

Mr McGINTY: Is it not desirable in those circumstances for the Bill to contain an express provision that where it is discovered subsequently that a rort has taken place, the stamp duty is payable retrospectively; or is that the effect of it?

Mr Court: Yes.

Mr McGINTY: The final matter is the provision to exempt the payment of stamp duty in Western Australia where shares in Western Australian companies are traded on a foreign stock exchange. The notes that accompany the Bill indicate that the only company which will benefit from this is Cash Converters. What approaches were made to the Government by Cash Converters, because I presume this was not done out of the generosity of the Tax Department's heart but was the subject of an approach by that company; and why will this action be taken?

Mr Court: Cash Converters approached the Minister for Finance and explained that if it were to list on both the London Stock Exchange and the Australian Stock Exchange, it would be paying stamp duty on share transactions through both exchanges.

Mr McGINTY: It was simply to avoid the double payment?

Mr Court: Yes.

Mr McGINTY: Are there any other situations in which double payment of stamp duty with regard to share transactions currently occurs, or is this the limit of it? I can understand the argument if an exceptional circumstance were to arise.

Mr Court: I am told there are no others.

Mr McGINTY: I understand the share register is maintained in London and that gives rise to the duty being paid there. Because this is a Western Australian incorporated company, a liability arises here as well. If there is no other circumstance, this appears to me to be an anomaly within the stamp duty arrangements for share transfers and, as such, we raise no real objection to it.

That completes the matters about which I have concern for this legislation. Other members of the Opposition might have some brief contributions in which they will raise some questions. Although it has been taken off the guillotine, I think we can reasonably expect that it will see its way through this place today.

MR CATANIA (Balcatta) [5.20 pm]: Like the Leader of the Opposition, I refer to part 4; in particular, the 50 per cent concession on land tax. I have taken the explanations of the Treasurer into consideration. I will put on my small business hat. If we are to give a 50 per cent concession on land tax to the areas mentioned by the Treasurer, why not also consider some sort of concession - perhaps not 50 per cent - to small businesses?

Mr Osborne: You are calling yourself a small businessman?

Mr CATANIA: I am sure the member would not like to have my overdraft as well. This would encourage small businesses to invest further in their businesses, or assist in cases where they are falling on hard times. A concession could be made on the land tax that they must pay when they own the premises or if they have a rented or leased premises. We should not automatically give the recipients a 25 per cent concession. Some parameters, regulations or qualifications could be placed on the concession. Perhaps a concession could be considered for those who will invest in certain industries or, as I said, those who have fallen on hard times who need a break.

I am sure the Treasurer is aware that some land tax rates this year increased quite substantially, many by over 100 per cent and others by between 60 per cent and 70 per cent. I wonder whether there should be some consideration for people who have a second property, other than their home, that may be their only source of income. Here, I am talking about retirees. That source of income jeopardises the granting of a full pension. Self-funded retirees is a good example. Perhaps we should consider giving them a concession based on their situation. I am not saying that it should be given freely to all; however, if the only income of a retired couple is from a second property, which they have acquired by being thrifty over the years and putting money away -

Mr Court: Are you trying to protect your future?

Mr CATANIA: By the time I get out of here I may not have a second property. This is a very expensive place in which to be, as the Treasurer knows.

Mr Court: You put up the amendment, and I will support it!

Mr CATANIA: Many people are not wealthy by any stretch of the imagination; some of them are of pension age and their pension is affected because they own a second property. Perhaps some consideration should be given to them.

Mr Tubby: Are you looking to the future?

Mr CATANIA: As I said, I do not think I will have a second property by the time I get out of here.

I refer to part 5 which deals with the stamp duty relief for corporate restructures. We must be very careful about the abuses that might occur as a result of this provision. The Leader of the Opposition stated that this provision could be open to asset-stripping when there is a restructure of a company with common ownership. We must ensure that we do not provide conditions that allow people to get stamp duty relief when they can asset-strip at the same time.

I return to the small business sector and suggest that perhaps we should consider the stamp duty payable when businesses are transferred from father to son. Small businesses in Western Australia are very small.

Mr Court: That is a very sexist comment. What about mother to daughter?

Mr CATANIA: I apologise; the Treasurer is perfectly correct.

Mr Court: Parent to child.

Mr CATANIA: I am sure if my daughter were here, I would be summarily abused. As I said, small businesses are very small and most people involved in them derive only a livable wage. When these small businesses are transferred from family member to family member, the onus of stamp duty should be considered.

These amendments appear to me to be favouring the bigger companies and the wealthier side of our community, rather than the mainstream community and small businesses. I ask the Treasurer to touch on that when he responds and I sincerely hope he can give me some answers to the three points I have raised.

MR RIPPER (Belmont) [5.27 pm]: I have a number of concerns about the legislation which I hope the Treasurer will address in his response. First, I will deal with the stamp duty exemption for corporate restructures. I understand the rationale for this is that the current taxation regime might impede corporate restructures which could promote a more efficient operation of the group of enterprises or companies involved. I do not suppose people will have an objection to a restructure with an objective of improving the efficiency of the overall operation, or to removing a taxation impediment to such a restructure. I will come to that point a little later.

Corporate restructures occur not just for efficiency reasons, but for others that are less laudable. For example, there might be a corporate restructure designed to increase the control which a shareholder or group of shareholders or an executive or group of executives have over an operation. There might also be a corporate restructure that has as its objective the conferring of some special benefits on a group of shareholders or executives. *The Weekend Australian* last weekend dealt with a manoeuvre that occurred in John Elliott's group of companies. As part of a share incentive scheme for executives, he had himself issued with 15 million 1¢ paid shares. Shortly afterwards the company made a couple of bonus issues and as a result of the 15 million 1¢ shares, he ended up with 7.5 million fully paid shares worth $22m.

There was still the liability for him to pay out on the 15 million 1¢ shares. He had a liability of $84m, but he was able to escape that liability by simply handing back the shares, which ended up in the Elders superannuation fund together with the liability of $84m. Basically, according to Terry McCrann in *The Weekend Australian*, John Elliott paid $150 000 for 15 million 1¢ paid shares which, as the result of bonus issues, enabled him to be issued with 7.5 million fully paid shares valued at $22m. He never paid more than $150 000 for his 15 million 1¢ shares, and got $22m at the expense of the other shareholders in Elders. It is nice work if one can get it, but few people have access to that sort of instant wealth. He was basically stealing from the other shareholders, and he seems to have got away with it.

Those corporate restructures are not to the general benefit of the enterprise, but are manipulated for the benefit of those who organised the restructure. Some corporate restructures and rearrangements disadvantage not shareholders, but creditors. In the phoenix company system in which a corporation does not do too well and runs up a lot of debts, it folds with all the figures behind the corporation then essentially conducting business in another corporate name. In effect it is stealing from its creditors. We should not do anything to encourage corporate restructures if that is their objective.

I am concerned that the reduction in the stamp duty paid in the corporate restructure might encourage the nefarious activity to which I refer. I said at commencement of my remarks that, on the face of it, the removal of a tax impediment which encourages a restructure for efficiency is a good thing. However, we must bear in mind that all taxes are barriers to economic efficiency. Every time something is taxed, in some way one interferes with the market and lessens the market contribution to economic efficiency. Nevertheless, Governments must raise taxes. The best we can do is have a taxation regime which has the least deleterious effects on the market and economic efficiency.

One might as well argue that we should remove stamp duty from all sorts of transactions. If that were allowed to occur, greater efficiency in the economy would result because resources would be allocated to the most productive uses; therefore, we should remove stamp duty from all sorts of transactions.

Mr Bloffwitch: I agree; we should.

Mr RIPPER: The trouble is that the argument applies to every tax. If one applied the argument to its logical conclusion, the Government would have no revenue. The public sector has its role in improving efficiency in the economy by providing infrastructure. This part of the Bill does not seem to be sufficiently justified. First the impact of stamp duty in this area does not produce any more inefficiency than the impact of stamp duty on all sorts of other transactions. Secondly, one runs the risk of encouraging all sorts of corporate restructures which have the nefarious

objectives of increasing the power of persons whose manipulation brought about the restructure to gain benefit at the expense of either shareholders or creditors.

We should recognise that structures which enable enterprises to operate through several different corporate vehicles have legal and commercial advantages. That is why people do it. A small negative arises in restructures as stamp duty is payable. That must be offset against the legal and commercial advantages of having a variety of separate vehicles to conduct the enterprise. People should not complain too much about what they lose on the swings, as they gain on the roundabout legally and commercially with these structures.

The next question is the stamp duty amendment for share trades which occur in certain foreign markets where stamp duty is already payable. Will the Treasurer explain why we should be giving up taxation revenue while the United Kingdom, in the first instance, and other jurisdictions in others, will retain the revenue?

Mr Court: The transaction is not happening here.

Mr RIPPER: I know the company is incorporated in Western Australia but -

Mr Court: None of them will go to that market. It will stop Western Australian companies going to that market.

Mr RIPPER: We are prepared to say it is okay for the United Kingdom to have that revenue. We will give up our just claim to encourage Western Australian companies.

Mr Court: Let us say a company like RTZ made the decision to turn CRA into a local company. If shares are listed in both markets for CRA and the company must pay stamp duty on both markets, it will not list them on both markets.

Mr RIPPER: I can understand the Treasurer's arguments. It seems that the Western Australian jurisdiction will miss out on revenue.

Mr Court: The transaction is not happening here anyway. If they are listed on the English market, and are trading there, why must they pay twice? It was an anomaly in the Act.

Mr RIPPER: I will think about those comments. The Treasurer might have disposed of that objection, but it seems that one jurisdiction or other could make the sacrifice in revenue and we have chosen that it should be the WA jurisdiction.

I caught half of the interchange between the Treasurer and the Leader of the Opposition regarding the extension of a 50 per cent land tax concession to the primary producers who fail the income test. The explanatory notes say it will be extended to genuine primary producers, but that seems to be the purpose of the income test already in the legislation. If someone is obtaining less than one-third of his income from primary production, in what sense is he still a genuine primary producer? It seems that one should gain at least a majority of income from primary production to be considered a genuine primary producer. If we are to remove the income test, how will the department judge who is a genuine primary producer? What will be the test? I will be interested in the response to that question.

It seems that some people who have hobby farms might well be able to gain a 50 per cent land tax concession if they take advantage of this provision. How will the department be able to rule that a hobby farmer is not a genuine primary producer -

Mr Tubby: If he had a hobby farm, he does not pay it anyway. It is only for those who live off the hobby farm.

Mr RIPPER: I will let the Treasurer explain it. Take someone who is not a genuine primary producer, who has a house in the city and has some land elsewhere which he works and from which he makes a little money. Essentially, it is used for a combination of recreation and a few tax advantages.

My understanding is that because that person would fail the income test they would not be able to qualify for an exemption from land tax. Now we will say they might not qualify for an exemption but they will get a 50 per cent concession. That is my concern. It may be that because I do not have the detailed knowledge of the land tax system that a tax lawyer would have, I have it slightly wrong. I am prepared to be corrected by the Treasurer, but I would like to be satisfied on that point. I do not want to see us extending concessions to people in those circumstances.

MR COURT (Nedlands - Treasurer) [5.41 pm]: The member for Balcatta raised a number of issues, one of which is the whole question of asset-stripping. Asset-stripping together with corporate reconstruction is covered in a number of ways, some of which I have outlined to the Leader of the Opposition. A scheme similar to this one has operated quite effectively in Queensland since 1970. On the question of extending some of the exemptions to small business, I agree with the member for Balcatta that it would be nice if we could get rid of all taxation. Unfortunately, that will not happen because the State Government has a relatively narrow revenue base. However, I think the member for Balcatta would agree that a number of anomalies have arisen in a number of state tax areas. It is to the

credit of the Minister for Finance that he has been prepared to bring in amendments to try to get rid of the anomalies. In all cases where that happens we lose revenue, but we believe the purpose for which those taxes are being paid is not the original purpose. As to the transfer of businesses from parent to child, we started off with the transfer of farms. We experienced great difficulty with the drafting to try to ensure that we did not provide avenues for rorting the system. The member is quite right; we must look at how we can extend some of those incentives.

The Federal Government has taken a good step forward by addressing the capital gains tax issue. I have always thought that one of the great benefits of small business is building up and selling, building up a bit more and selling, and working up the scale. However, the capital gains tax was structured in such a way that it was not an incentive. We must provide some incentive for people to take the risk and to work a bit harder to build up small businesses. We will examine whether there are ways in which we can extend this to genuine cases where businesses are being transferred within families. There may be a revenue loss but, as in the case of farms, it is sad when people hang onto a business because a tax barrier is in the way. It would be much better if they could pass it on to the next generation. If the next generation wants to blow it or whatever, that is that generation's responsibility. I agree with the general thrust of what the member for Balcatta said.

On the question of the share transactions and the United Kingdom stock exchange, Cash Converters is a Western Australian company accessing capital markets overseas. The company has been able to get money out of those markets, which has been to the benefit of the Western Australian economy. We are always trying to find a larger capital base. We pick up duty on foreign company shares that are traded on the market in Western Australia, therefore we do not expect foreign companies trading here also to pay duty in their own countries. We are saying that companies will pay the duty only once.

Mr Ripper: Are there foreign companies on the Australian Stock Exchange, if we are receiving stamp duty?

Mr COURT: Yes. Similarly, a number of Australian companies are listed on the New York stock exchange and others.

The scenario outlined by the member regarding corporate reconstructions and the control of special benefits is extremely unlikely owing to the pre- and post-association test and the 90 per cent degree of shareholding test. A company must be associated with the company for three years before the transaction and for a further five years after the transaction, but it must also be a company which meets the 90 per cent association test. It would be very unlikely. The Elders example, which the member cited, is irrelevant as it would probably fail the 90 per cent association test. No stamp duty is payable on the issue of shares anyway; it is payable only when they are traded.

Mr Ripper: I put that forward as an example of nefarious activities.

Mr COURT: The member used the opportunity, and I am sure if he wishes to discuss it with Mr Elliott he will find him at the Carlton-Eagles game at Subiaco Oval at 2.15 pm this Saturday. He is easy to find - just follow the smoke!

I answered the question about hobby farmers because they must pass a number of tests: First, they must prove to the commissioner that it is a business in that the land is used on a commercial basis to produce income to the user from the sale of produce or stock. As the member mentioned, farmers living on a hobby farm would not pay land tax anyway. If a farmer was able to convince the commissioner that he had fully re-afforested land as a full commercial use of the property and then a few years down the track subdivided the property, as the farmer said to the commissioner that the afforestation was long-term - over 50 years or whatever - the commissioner would have the right to claw back the five years of land tax prior to the farmer selling the land. A number of measures are in place. The commissioner has the power to determine whether it is a business. I can assure the member that a very tough test is applied.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Council.

PERSONAL EXPLANATION - MINISTER FOR FAIR TRADING

Real Estate Legislation Amendment Act, Sections 11, 46, 52

MRS EDWARDES (Kingsley - Minister for Fair Trading) [5.49 pm] - by leave: I wish to clarify the position relating to the decision by the Government to revoke the proclamation of sections 11, 46 and 52 of the Real Estate Legislation Amendment Act 1995. The Opposition has sought to argue that the Executive is undermining the Parliament by revoking the proclamation. In fact, a discretionary power is given by the Parliament to the Executive whenever Parliament includes in legislation a provision that the legislation will come into operation on proclamation. The power that Parliament saw fit to assign to the executive arm of government was the practical decision of

determining the necessary arrangements to be put in place to set the scene for the organised commencement of the relevant Statute. Section 2 of the Real Estate Legislation Amendment Act provides that -

> The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

The proclamation was made on 18 June 1996 and published on 25 June 1996; 1 January 1997 was fixed as the day on which sections 11, 46 and 52 of the Act would come into operation. Where the proclamation fixes a date which has not yet arrived, it is implicit in the provision granting the power of proclamation to the Governor that he should have the capacity to revoke that proclamation, provided he does so prior to the advent of the originally proclaimed date of operation. This is supported by legal opinion by the Crown Solicitor.

I refer members to sections 5 and 48 of the Interpretation Act and also the decision of the Full Court of New South Wales in Parkes Rural Distributions Pty Ltd v Glasson (1986) 7 New South Wales Law Report 332 at page 335.

Several members interjected.

Point of Order

Mr C.J. BARNETT : It is the convention of this House that other members remain silent while a member makes a personal explanation.

The ACTING SPEAKER (Mr Day): The Leader of the House makes a valid point, particularly in relation to the member for Mitchell, who is interjecting while not in his seat. I ask that the member making the personal explanation be given the customary courtesy of being heard in silence.

Personal Explanation Resumed

Mrs EDWARDES : It states that the power may be so exercised as to add to, subtract from or reverse the result of the previous exercise. A House of Lords' decision is relied on for support for the proposition of ability to reverse it altogether - Lawrie v Lees 1881 7 ALL C 19 at 29. The following sequence of events will be of interest to members -

2 August 1996	contact made with Parliamentary Counsel seeking advice;
5 August 1996	verbal advice provided from Parliamentary Counsel;
6 August 1996	request from Ministry of Fair Trading to Crown Solicitor for written advice;
9 August 1996	written advice received;
12 August 1996	copy of REIWA policy group agenda received; and
15 August 1996	executive director of REIWA advised my office of a decision by the REIWA policy group that it had agreed to recommend the establishment of a $1m fighting fund over a period of five years for purposes of protecting the commercial interests of the real estate sector.

This letter was received on 19 August, which was 10 days after I received advice from the Crown Solicitor. I categorically deny that I have been in any way untruthful or have acted improperly in the processing of this matter. To further emphasise this point, I seek leave to table a letter from the Real Estate Institute of Western Australia, which was received today.

Leave granted. [See paper No 478.]

CRIMINAL CODE AMENDMENT BILL (No 2)

Receipt and First Reading

Bill received from the Council; and, on motion by Mr C.J. Barnett (Leader of the House), read a first time.

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Mr C.J. Barnett (Leader of the House), resolved -

> That the House at its rising adjourn until Tuesday, 17 September at 2.00 pm.

House adjourned at 5.53 pm

QUESTIONS ON NOTICE

KOI CARP - IN LAKE JOONDALUP OR OTHER WATERWAYS

1580. Dr CONSTABLE to the Minister for Fisheries:

(1) Are there any koi carp in -

(a) Lake Joondalup; or
(b) any other Western Australian waterways?

(2) If yes -

(a) how did the fish enter the lake or waterway in question; and
(b) what programs are in place to remove the fish or to control the numbers and movement of the fish?

Mr HOUSE replied:

(1) (a) The department has advised me that it does not believe koi carp are present in Western Australian waterways. However, no surveys have been undertaken by the Fisheries Department.

(b) No koi have been reported; however, small numbers of goldfish have been found in other waterways.

(2) Not applicable.

DISABILITY SERVICES COMMISSION - PYRTON COMPLEX, TENDERS FOR PRIVATISING SERVICES

1642. Dr WATSON to the Minister for Disability Services:

(1) How many submissions for tenders for privatising the services from the Pyrton complex have been received?

(2) How many will be accepted?

(3) By what date?

Mr MINSON replied:

(1) Eleven organisations responded to the invitation to register interest in the "Moving to the Community" project which involves approximately 50 people from Pyrton and state nursing homes. Eight of these organisations were subsequently invited to a briefing held on 26 August 1996. The final request for proposal will be distributed in late September 1996. The number of agencies which will submit formal proposals is therefore not yet known.

(2) Depending on the proposals received, one or more agencies will be selected.

(3) It is proposed that a final decision will be made by mid-December.

IMTECH RUBBER PTY LTD- TYRE RECYCLING GRANT

1789. Dr EDWARDS to the Minister for Commerce and Trade:

(1) How much money has been granted to Imtech for tyre recycling?

(2) What conditions have been placed on them receiving the money?

(3) What other companies were considered for the grant?

(4) What were the criteria for awarding the money?

(5) Who made the final decision?

Mr COWAN replied:

(1) Subject to certain terms and conditions, Cabinet has approved a loan of $815 850 to Imtech Rubber Pty Ltd. The loan does not accrue interest and is convertible to a grant subject to performance milestones.

(2) The terms and conditions are currently the subject of negotiation between the Government and the company. As has been my practice with industry assistance packages above $250 000, I will make a formal statement in the House about the assistance to Imtech Rubber Pty Ltd when the agreement has been signed by both parties. I will table relevant information, including the primary terms and conditions, for the information of members and the general public. In the meantime, I can advise the member that a range of conditions has been sought as part of the assistance, including -

provision of information to demonstrate financial and operational performance;
maintenance of employment levels;
provision of security to the Government;
limitations to gate fees chargeable; and
access for existing scrap tyre value added to processors of scrap tyres.

(3) No other companies were considered for this specific grant as it relates solely to the Imtech Rubber project. The project arose from a public call for project proposals on tyre recycling to be considered under the Government's industry incentive policy. A number of other project inquiries were made under the incentive policy but just the Imtech Rubber project made formal application and submitted information to meet government eligibility guidelines under the industry incentive policy.

(4) Industry incentive policy guidelines are available from the Department of Commerce and Trade and relate to the establishment of new industry in the State. Eligibility for incentives will be assessed against the following criteria -

the project for which incentives are sought must relate to the establishment of a new industry which may involve the establishment of a new operation or the expansion of an existing operation;

it needs to be demonstrated that the project will not occur in the State unless incentives are provided;

the project will need to demonstrate significant net economic benefits to Western Australia. There will need to be a positive public rate of return which will invariably be higher than the project's internal rate of return; factors include government revenue, technology transfers and the upgrading of work force skills, together with enhanced profitability and increased market opportunities for existing industry;

the project must relate to the establishment or development of an industry that has not benefited significant from state government financial assistance and where the provision of incentives will not result in an unfair competitive advantage over existing Western Australian companies;

the capital establishment cost of the project is to be a minimum of $A2.5m which will include an appropriate level of equity funding. In recognition of the Government's commitment to regional development and the nature and type of such projects the capital establishment cost of the regional project is to be a minimum of $A1m;

the project's feasibility study and business plan, together with other information required by Government to be provided for its assessment will need to indicate long-term commercial viability;

the project is to be either in the manufacturing or services sector. Projects are based on the extractive component of mining; primary agricultural production and retail are excluded; and

the project will need to be substantially export oriented or import replacement, or involve the processing of and value adding to the State's natural resources.

(5) Cabinet has authorised the Minister for Commerce and Trade to offer the incentive.

HEALTH DEPARTMENT - RADIOLOGICAL CONTRACTS AWARDED TO OSBORNE PARK HOSPITAL; PUBLIC HOSPITALS, OPEN TENDERS

1814. Dr GALLOP to the Minister for Health:

(1) Will the Minister guarantee that any radiological contracts awarded by Osborne Park Hospital will be the result of an open tender process?

(2) Can the Minister indicate whether any radiological contracts awarded in our public hospital system have not been the result of an open tender?

(3) If there are some, where were they awarded and by what process?

Mr PRINCE replied:

(1) Yes, after the existing contract ends in September 1998.

(2) The Commissioner of Health has advised me that it appears that three radiological contracts have been entered into without following Health Supply Council's policies in regard to the tendering process. One of these - Osborne Park - was awarded by an extension to the contract of the incumbent contractor, the other two - Geraldton and Carnarvon - related to the awarding of a contract following open advertising, but, by awarding a contract over local limits without referral to the Health Supply Council and without compliance with the requirement to provide a procurement plan, these were both done as part of the same process. The Osborne Park board has been requested to provide the commissioner with an explanation as to why the tendering process was not followed.

ETHNIC GROUPS - NON-ENGLISH SPEAKING BACKGROUND (NESB) PEOPLE, PROGRAMS MEETING NEEDS; LANGUAGE SERVICES; FUNDING ALLOCATIONS

1819. Mrs ROBERTS to the Minister for Disability Services:

(1) What funds have been allocated, within the Minister's portfolio, for programs which are aimed at specifically meeting the needs of ethnic groups and individuals of non-English speaking backgrounds?

(2) To which programs have these funds been allocated?

(3) What amount has been allocated for language services?

Mr MINSON replied:

(1) The Disability Services Commission has allocated $35 000 on a recurrent basis since 1995 through the Ethnic Communities' Council of Western Australia to the Ethnic Disability Advocacy Centre. The centre is designed to help people with disabilities from ethnic backgrounds to gain access to a wide range of community services. These include advocacy, promoting community awareness of the needs of people with disabilities, and providing resource information and support which enables people with disabilities to make informed decisions.

(2) Funding to the Ethnic Disability Advocacy Centre is through the Community Development and Service Improvement Program.

(3) While no specific allocation of funds is made for language services, the DSC regularly uses interpreter services to assist families and individuals. In addition, a language services plan is included as part of the DSC multicultural disability services policy which addresses the needs of Western Australians with disabilities from culturally and linguistically diverse backgrounds. A steering committee consisting of the Ethnic Communities' Council of Western Australia, Ethnic Disability Advocacy Centre, the Office of Multicultural Interests and the Department of Immigration and Multicultural Affairs is overseeing the implementation of this policy. Selected program and service information is published in languages other than English and DSC staff are currently provided with ethnic awareness education sessions.

YOUTH EMPLOYMENT - GOVERNMENT DEPARTMENTS; APPRENTICESHIPS; TRAINEESHIPS; CADETSHIPS

1878. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) How many -

(a) apprenticeships;
(b) traineeships; and
(c) cadetships

were made available to young people -

(i) under the age of 21 years;
(ii) between 21 and 25 years

during the 1995-96 financial year by each department and agency under the Minister's control?

(2) How many young people not employed on apprenticeships, traineeships or cadetships were employed by each agency and department under the Minister's control in the 1995-96 financial year?

(3) How many young people described in (2) above were -

(a) under 21 years of age;
(b) between 21 and 25 years of age?

Mr HOUSE replied:

Agriculture Western Australia -
(1) (a) Nil.
(b) 13.
(c) Nil

(i) One.
(ii) Two.

(2) 180.

(3) (a) 65.
(b) 115.

Fisheries Department -
(1) (a)-(b) None during the 1995-96 financial year.

(2) Fifteen young employees - age up to 25 years.

(3) (a) Two under 21 years of age.
(b) 13 between the age of 21 and 25 years.

ABORIGINAL SITES - PINJARRA RESERVE 31032, NYOONGAR MASSACRE IN 1834, MEMORIAL

1899. Dr WATSON to the Minister for Aboriginal Affairs:

(1) In relation to Pinjarra reserve No 31032 and the registered Aboriginal site on land adjacent to that reserve, what is the Government's commitment to a place of commemoration for the Nyoongars massacred at that place in 1834?

(2) Bearing in mind that the Government of Tasmania recently provided a memorial within a month to those people massacred at Port Arthur, would this Government consider working with local Nyoongars to enable a suitable memorial to be located and protected at the site of the 1834 massacre for the anniversary on 28 October 1996?

(3) If not, why not?

Mr PRINCE replied:

(1) The registered Aboriginal site is located on, not adjacent to, reserve No 31032. The Shire of Murray, Murray District Aboriginal Corporation and the Aboriginal Affairs Department are negotiating a suitable commemoration.

(2) See response to (1).

(3) Not applicable.

GOVERNMENT PURCHASE ORDERS - CONSULTANTS, AUTHORITY TO USE

2068. Mrs HENDERSON to the Minister for Public Sector Management:

I refer to the lack of accountability in the Government's privatisation and contracting out policy and ask -

(1) Is it true that private contractors in certain government departments and agencies have been given authority to use government purchase orders to acquire services, goods or equipmen?

(2) Has the Government sought or obtained the views of the Auditor General on this process?

(3) Is this just another case of standards slipping under the Government's desire to contract out services?

Mr COURT replied:

(1)-(3) Since its introduction by the Burke Government in 1985 the Financial Administration and Audit Act has provided for the definition of officer to include consultants working on behalf of public sector agencies. The FAAA expressly contemplates in the definition of ‘certifying officer’ and ‘officer’ in section 3 that private sector consultants may in appropriate circumstances be required to assist agencies in meeting their financial and operational obligations. This has in some cases included, for example, the use of private accounting firms by small agencies without their own in-house resources to maintain their financial records

which may have included among other things certifying or incurring expenditure for government purchase orders. This, however, is the exception rather than the rule. In most cases, including where facilities managers are used by the Department of Contract and Management Services private consultants do not have authority to use government purchase orders. In circumstances where a consultant is appointed as certifying officer by the accountable officer of the authority or department the consultant would be required to comply with the FAAA and Treasurer's Instructions to the same extent as a public sector employee. I am not aware of any consultation with the Auditor General in relation to this practice. However, as the member will no doubt be aware, the Auditor General has full access to agencies' financial and operational records and can review the practice at his discretion.

QUESTIONS WITHOUT NOTICE

POLICE SERVICE- BOULDER STATION

Reopening

467. Mr GRILL to the Minister for Police:

After a prolonged period of violent crime in Boulder, which culminated in two women being clubbed with an iron bar in my electorate office, and after a big public meeting to protest against inadequate protection for citizens in Boulder, the Minister for Police promised to support an initiative by the then Superintendent of Police, Gary Booth, to reopen the Boulder police station. I ask the Minister -

(1) Are he and the new commander now going back on that promise, as reported on the front page of today's *Kalgoorlie Miner*?

(2) When and how will the Minister and the Police Force meet their commitments to my Boulder constituents?

Mr WIESE replied:

(1)-(2) I make it clear that I have not supported an initiative to open the Boulder police station. Certainly, I have indicated that the matter was under consideration following the events that occurred, which were previously raised with me by the member for Eyre. I am not aware of the matters to which the member refers in the local newspaper indicating that there has been a change of mind. Nor am I aware that a different decision has been made.

Mr Grill: You were quoted in this morning's newspaper.

Mr WIESE: Has *The West Australian* got it wrong again? I repeat, I have never indicated that I believe the Boulder police station should be reopened. I indicated that it was under consideration because I was given that advice. I will follow up the matter raised by the member for Eyre and will get back to him with the relevant information.

WATER CORPORATION - BALLAJURA, WATER PIPELINE CONSTRUCTION

468. Mrs PARKER to the Minister for Water Resources:

The residents in Ballajura have heard in the community that the water pipeline extension will not be built by summer as promised.

(1) Have the tenders been let?

(2) What is the construction schedule?

Mr NICHOLLS replied:

I thank the member for some notice of this question.

(1)-(2) The member has pursued this issue over quite a period. I am pleased to inform the House that contracts have been let for work to upgrade the water mains and solve the water pressure problem in Ballajura. Work is expected to start within a fortnight and be completed by the end of October. The $1.1m program has been split into two contracts: Triad Contractors will undertake section 1 in Beach and Marshall Roads from Alexander Drive to Bellefin Drive and A. J. Drever and Co will complete section 2 from Marshall Road, Bellefin Drive. I expect that not only will the work be completed, but also this will provide significant benefit to the people in Ballajura and solve the lack of water pressure that has been a problem in those areas over the summer months. I understand that the new system mains involve 4.7 kilometres of pipe and will be laid in September and October.

HOSPITALS - SIR CHARLES GAIRDNER

Relatives of Dying Patients; Accommodation Charge

469. Dr GALLOP to the Minister for Health:

Sir Charles Gairdner Hospital is once again charging relatives of dying cancer patients, who wish to be close to their loved ones in their last days, $35 a night for accommodation.

(1) Why has the charge been reintroduced when the original plan was scrapped in August last year due to public outrage?

(2) Why has the Minister allowed the hospital to reverse the decision by the previous Minister for Health which halted this callous practice?

Mr PRINCE replied:

(1)-(2) Is the Deputy Leader of the Opposition referring to Anstey House?

Dr Gallop: I am referring to the rooms that are available in the oncology unit for relatives who want to sleep overnight.

Mr PRINCE: I am horrified to hear what the Deputy Leader of the Opposition says. I will have the matter looked into immediately. It is a matter within the management of the hospital and the board. It is not something of which I have had any prior notice nor which I have sanctioned.

HIGH COURT - CHALLENGE TO FEDERAL INDUSTRIAL RELATIONS LAWS, COST

470. Mr BOARD to the Minister for Labour Relations:

(1) Is the Minister aware of comments made yesterday about the cost of the State's challenge to federal industrial relations legislation?

(2) What will be the cost to taxpayers?

Mr KIERATH replied:

(1)-(2) I could not believe the comments made on radio last night by Stephanie Mayman of the Trades and Labor Council when I think she said “We didn’t win all.” She said that it was a tremendous waste of taxpayers' money.

Mrs Henderson: That is dead right.

Mr KIERATH: It is fascinating that the member for Thornlie should say "dead right" because she did not mention the three most important points on which we were successful, especially the unfair dismissal provisions. An article in *The Australian Financial Review* reads -

> Mr Joe Catanzariti, a partner with the national law firm Clayton Utz, said the decision "punches a big hole in the existing unfair dismissal laws" and "severely narrows the federal test".

I wholeheartedly agree with that summation. The cost to the taxpayers at this stage is $10 500. How does that compare? It was only one-sixth of what the Labor member, Leo McLeay, received for falling off his bike. The vandals who recently stormed the national Parliament caused damage which cost seven times as much as our High Court challenge. The supporters of members opposite caused more damage through vandalism.

When I compare that with the millions of dollars lost by the Opposition, I cannot believe it when people shed crocodile tears in public. I agree with the remarks by Stephanie Mayman when she said that the High Court decision was a victory for the workers. It was a victory because we forced major changes to the unfair dismissal provisions. Now, the broad test of federal awards has been narrowed to a finite situation. More importantly, the High Court has ruled that State Governments have virtually total control over the conditions and laws that apply to their employees. On those issues we are delighted with the High Court decision. Imagine making a challenge and punching three big holes in the case, at a cost of one-sixth of the amount that Leo MacLeay received when he fell off his bike!

WESTERN POWER - THEFT AND OFFICIAL CORRUPTION ALLEGATIONS

471. Mr THOMAS to the Minister for Energy:

I refer to the Minister's answer to my question on notice on Tuesday relating to allegations of theft and official corruption in Western Power -

(1) What were the findings of the independent investigator who investigated these matters?

(2) Is it true that the Western Power employee who blew the whistle was subsequently identified by a superior and had his allegations disclosed in front of workers affected by them?

(3) Did Western Power notify the Official Corruption Commission of this matter, as required by law; and, if so, was it before the Minister was given notice of my question on 20 August?

Mr C.J. BARNETT replied:

I thank the member for some notice of this question.

(1) Western Power quite properly did bring in an independent investigator. The allegations could not be substantiated, and no irregularity was found.

(2) I am advised that the allegations were revealed to other Western Power employees by a third party. I understand the third party was a union official.

(3) Yes. The procedures were under way for notification, which took place on 5 September 1996. Therefore, it was after the question was placed on notice by the member. Procedures are under way to comply with the law.

SCHOOLS- MT LAWLEY SENIOR HIGH

Home Economics Section, Upgrading

472. Dr HAMES to the Minister for Education:

Problems associated with the home economics section at Mt Lawley Senior High School, which was built in the 1950s, have been brought to the attention of the Government by the P & C association president, Mrs Lea Fernance, the principal and me. A suggestion has been made to complete design drawings this financial year, with completion next financial year. Is the Minister in a position to support this program?

Mr C.J. BARNETT replied:

I am aware of the issue. Accompanied by the member for Dianella, I visited the home economics section at Mt Lawley Senior High School. Everyone within the Education Department agrees that the area should be upgraded. Significant work has been done recently at Mt Lawley Senior High School. A design and technology centre worth $1.7m was completed in 1992-93, and an administration and student service facility worth $1.2m was completed in 1993-94. Without question, the area needs to be upgraded but the senior high school must wait its turn. It is a high priority and will be considered for the 1997-98 financial year. I can give no commitment at this stage. I am not about to allocate money to preparatory work until a decision is made about when it will go ahead. I agree with the member. I am conscious of his lobbying. Like all other schools, Mt Lawley Senior High School will become part of a proper assessment procedure.

NORTHBRIDGE TUNNEL- WESTERN END OPTIONS

473. Mrs ROBERTS to the Minister representing the Minister for Transport:

(1) Will the Minister give an unequivocal guarantee to the lease and property owners affected by the Northbridge tunnel that all the Government's original undertakings to them will be honoured?

(2) Is it true that the Government had plans drawn up to reduce the length of the tunnel at its western end and, further, that the plans incorporated reducing the covered area west of the tunnel from 24 metres west of Fitzgerald Street to about three metres?

(3) Will the Minister table current options for the western end of the tunnel; and, if not, why not?

(4) Is the Minister now trying to blackmail those acting on behalf of St Brigid's church -

Mr C.J. Barnett: Point of order, Mr Speaker -

Mrs ROBERTS: - by offering to reduce the covered area by 17 metres, in exchange for land behind the church?

The SPEAKER: Order! There has been an attempt to raise a point of order, but before that point of order is considered, it is necessary to advise the member that the use of the word "blackmail" in that form is not acceptable in a question. I suggest the member amend part (4) by deleting the word "blackmail", either straight away, if she is able, or later.

Mrs ROBERTS: Mr Speaker, I will rephrase the question -

(4) Is the Minister now trying to intimidate those acting on behalf of St Brigid's Church by offering to reduce the covered area by 17 metres in exchange for land behind the church?

Mr LEWIS replied:

Is it not pleasing that the Opposition has now seen the benefit in the city northern by-pass project and has endorsed it in its transport policy? At last it has got the message.

Several members interjected.

Mr LEWIS: Is it not true that the Opposition has endorsed it in its transport policy? The wise people on the back bench have said that it is necessary.

(1) The Government maintains and reiterates that it will keep any disturbance to the lease and property owners in Northbridge during the construction period to an absolute minimum. It is a rather stupid question to suggest that the Government will not honour its undertakings.

(2) Yes, it is true that Main Roads Western Australia, during the tender processes, suggested to the contractors who were tendering that it would look at any option that would diminish the capital cost of that major infrastructure. That is a very commendable position to take, because it is responsible for the Government to suggest to tenderers that they find ways and means of reducing that capital cost. That should be applauded, not criticised. There have been discussions with St Brigid's Church about the western portal of the tunnel structure. As I understand it, the city northern by-pass committee has met those people and a rejig of the design has been facilitated, which I understand does provide the necessary -

Mrs Roberts: An open tunnel from the front of the church onwards.

Mr LEWIS: I understand that an agreement has been reached and the people associated with St Brigid's Church are satisfied.

Mrs Roberts: How have you satisfied them?

Mr Court interjected.

Mr LEWIS: I think that is true, Premier.

(3) There are no secrets about the tabling of the plans. If the member wishes the plans to be tabled, they can be tabled. There is no difficulty with that at all; it is just that the member is a bit too lazy to go and have a look. That is really what it is about.

(4) This question does not deserve an answer. To think that the Government, the responsible Government, would be in the business of intimidating or blackmailing, to use the member's outrageous words, a religious institution is just over the top and has absolutely no veracity at all.

ROADS - GREAT EASTERN HIGHWAY BETWEEN SAWYERS VALLEY-NORTHAM, ROAD SURFACE AND SPEED RESTRICTIONS

474. Mr TRENORDEN to the Minister representing the Minister for Transport:

Will the Minister comment on the road surface and speed restrictions of Great Eastern Highway between Sawyers Valley and Northam?

Several members interjected.

Mr LEWIS replied:

I have had prior notice of this question from the member for Avon, and I have a lengthy answer from the Minister. I will try to paraphrase it. I usually try not to read these sorts of answers, but if opposition members want, I am happy to read it to them in full. Would they like that?

The member will be aware that the Minister for Transport recently approached federal Transport Minister John Sharp for additional funding for Great Eastern Highway, which is a federal government road. Although the Minister for Transport was disappointed that Western Australia did not receive a fair allocation for the Great Eastern Highway project, funds will be allocated. The Minister for Transport is confident that the State will receive additional federal funds for this important road. The State Government recognises that most of the highway is well below the standards

set by the Federal Government. However, successive - I emphasise "successive" - Federal Governments have continued to provide about only half the level of necessary funding to do these works.

The House will be interested to know that the sections of Great Eastern Highway that have been funded in this year's Budget are as follows: Roe Highway to Scott Street, $3m, with a total project cost of $5.7m; The Lakes to El Caballo Resort, $1.9m, with a total project cost of $5.3m; Mundaring to Sawyers Valley, $1.5m, with a total project cost of $1.8m; Meenaar to Walgoolan, $9.9m, with a total project cost of $60m; and the Northam bypass, $1m. Projects still to be funded include the Northam bypass for $1m from a total project cost of $41m; the Sawyers Valley townsite for $2.6m from a total project cost of $2.6m; the Sawyers Valley to The Lakes dualling for $500 000 from a total project cost of $10.5m; Old Sawyers Road to Old Northam Road for $500 000 from a total project cost of $3m; and the orange route for $1.5m from a total land acquisition of $17m. Up to 30 000 vehicles, including 1 000 heavy trucks, use this section of the highway between Roe Highway and Linley Valley Road every day. Accident statistics show that between 1985 and 1995, 20 people were killed and another 2 035 injured. This represents a cost to the community of about $40m. Seven major projects are planned for this section of the highway, some of which are now under way. I will not read them out, but I will give that advice to the member for Avon. One million dollars is allocated in the 1996-97 Budget to study the traffic patterns, to look at the land requirements and to do a preliminary design for this important Northam bypass work.

POLICE SERVICE - MEETING 1994 BETWEEN COMMISSIONER FALCONER, RICHARD ELLIOTT, DAVID GRANT OVER WANNEROO INC INQUIRIES

475. Mr CATANIA to the Minister for Police:

On 21 March this year the Minister told the House that he had no prior knowledge of the October 1994 meeting between the Commissioner of Police, Bob Falconer, former Ministry of Justice chief, David Grant, and Richard Court's adviser, Richard Elliott; yet according to the interim report of the Royal Commission into the Wanneroo City Council the Minister is said to have told Mr Falconer that he should involve the Director of Public Prosecutions as an observer. Did the Minister mislead Parliament?

Mr WIESE replied:

I do not know what is in the recommendations because I have not read all of them. The member will be aware that although we indicated that the Director of Public Prosecutions should be involved, he was not available. I indicated to Commissioner Falconer - I think it was on that day, but the member would have to look at some of the answers that were given to questions - that the meeting he proposed was very appropriate. As I understand it, the DPP was not available that day; he was handling a court case in Bunbury. I do not believe I have indicated in any answers I have given in here that I have in any way misled the Parliament.

FIREARMS - SUPPLEMENTARY QUESTION UNACCEPTED

476. Mr CATANIA to the Minister for Police:

As a supplementary question: I refer to the Minister for Police honouring statements he makes to the Parliament. On 28 July he promised to confiscate up to 40 000 firearms under the gun control arrangements to take effect from Tuesday, 1 October.

Mr Cowan: This is not a supplementary question.

Point of Order

Mr TRENORDEN: I do not believe that question complies with the standing orders.

The SPEAKER : Order! At this stage it does not comply with standing orders. It seems to involve firearms. If the whole of the question is about firearms, it is not appropriate for the member to ask it as a supplementary question. Supplementary questions must be along the same theme as the question previously asked. So far, the questions are dissimilar.

Questions without Notice Resumed

Mr CATANIA : The theme of the previous question was that the Minister has misled the Parliament.

The SPEAKER: Order! Is that the theme of this question?

Mr CATANIA: The theme of this question is the issue of the Minister honouring the promises he made.

Mr Cowan: Sit down.

Mr CATANIA: I will repeat it. Members opposite should stop dribbling. The Deputy Premier constantly dribbles while he is in this House. I said that on 28 July the Minister for Police promised to confiscate up to 40 000 firearms -

Mr Cowan: Go back to Sicily. I would send you back.

The SPEAKER: Order! The level of interjections is too high today, and the interjections are becoming too personal. I do not think it is appropriate for members to make comments about a country where another member comes from, even though it is probably a very fine place, as I believe it is.

Withdrawal of Remark

Mr BROWN: I consider the remarks made by the Deputy Premier to be racist in the extreme. To tell a member on this side of the House to go back to the country of his birth is racist in the extreme.

Mr Trenorden: Sit down.

Mr BROWN: Those opposite can continue to be racist, if they like. Mr Speaker, I ask you to rule whether that is the case. If it is the standard of the House, we need to know it is. If it is inappropriate to make racist comments, I ask you to ask the Deputy Premier to withdraw.

Mr COWAN : I should not have entered into a private joke between the member for Balcatta and me. I do not know whether the House is aware that a trade delegation is departing from Western Australia to Italy. Two members participating in that delegation are the Minister for Local Government and the member for Balcatta. As a private joke, I was saying to the member for Balcatta that he should go back there sooner, rather than later. If the member for Balcatta or any other member is offended, I withdraw.

Questions without Notice Resumed

The SPEAKER : Order! Has the member completed his question yet?

Mr CATANIA: I have not. I would be delighted to go back to Sicily for a visit. Unfortunately, the miserable Deputy Premier, whose department is sending this trade delegation, will not pay the costs.

Mr Cowan: I can guarantee that now.

Several members interjected.

The SPEAKER: Order!

Mr CATANIA: I referred to the Minister for Police's honouring the statements that he makes in Parliament. On 28 July, the Minister promised to confiscate up to 40 000 firearms in Western Australia under gun laws to take effect on Tuesday 1 October. Given that there are only six sitting days remaining until that date, will he guarantee to introduce his legislation within the next six days? Will he also give an undertaking that this legislation, as promised, will be in place and operating by 1 October?

The SPEAKER: I do not accept that as a supplementary question.

REAL ESTATE AND BUSINESS AGENTS ACT - SECTION 61A, PROCLAMATION REVOCATION

477. Dr CONSTABLE to the Premier:

(1) Did Cabinet agree to bypass accepted parliamentary processes by approving the removal of section 61A of the Real Estate and Business Agents Act by Executive Council action?

(2) If yes, why was this legislation not brought back to Parliament to be dealt with properly by amendment?

Mr COURT replied:

(1) The matter was raised both in Cabinet and in our party room, and the course of action taken was agreed to.

(2) The deregulation was to occur on two fronts on 1 January and the Government -

Several members interjected.

The SPEAKER: Order!

Mr COURT: The Government still keeps its options open on that matter. The member for Balcatta has asked that the status quo remain. It would appear that both sides of the House have supported the process.