WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE ASSEMBLY

Wednesday, 19 November 1997

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 11.00 am, and read prayers.

PETITION - SUNDAY LIQUOR LICENCES

MR PENDAL (South Perth) [11.03 am]: I have a petition addressed in the following terms -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned want the right to purchase liquor from Licensed Liquor Stores on Sundays. We prefer buying liquor from Liquor Stores instead of Hotel Bottleshops and cannot do so on Sundays as Liquor Stores are not permitted to open on Sundays under the Liquor Licensing Act.
>
> We are concerned at the inconvenience caused to consumers, the lack of consumer choice and the real possibility of having to pay more for our purchases on Sundays because of the lack of competition which arises from liquor stores not being permitted to open on Sundays.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and amend the Liquor Licensing Act accordingly and your petitioners, as in duty bound, will ever pray.

The petition bears 82 signatures and I certify that it conforms to the standing orders of the Legislative Assembly.

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

[See petition No 113.]

STATEMENT - MINISTER FOR EDUCATION

Secondary Schooling in Kalgoorlie-Boulder

MR BARNETT (Cottesloe - Minister for Education) [11.06 am]: For some time now the future of secondary schooling in Kalgoorlie-Boulder has been the subject of concern and debate within the goldfields community. The Eastern Goldfields Senior High School is crowded, with 1 300 students and seven transportable classrooms. Most of the nine primary schools in the area are close to capacity, and as the majority of these students will progress to the Eastern Goldfields Senior High School, the overcrowding there can only worsen. By 2000, the school is expected to have more than 1 500 students and possibly as many as 17 transportable classrooms. The community has therefore considered ways of both alleviating the overcrowding and improving educational opportunities for local students, particularly in the vital post-compulsory years.

In February this year a committee chaired by the Education Department and comprising representatives of the parents and citizens, Chamber of Commerce and Industry, the Chamber of Minerals and Energy of Western Australia the Aboriginal community and the Goldfields-Esperance Development Commission was formed to consider alternatives for secondary education in the city. Community opinion was canvassed and three options were developed - a senior campus on the site of the Eastern Goldfields Senior High School; a second senior high school; and a senior campus on the Curtin University site in Kalgoorlie.

While construction of a second senior high school would obviously address the overcrowding, the resulting two schools would be small and would struggle to provide students with an appropriate range of subjects. In contrast, a senior campus would provide not only the required additional classrooms but also a mature, adult environment for post-compulsory students, with pathways into technical and further education, university and the work force. It is an approach I personally have favoured for some time, as I indicated during a visit to Kalgoorlie in April this year. A ballot on these options has shown that the community also strongly supports provision of a senior campus on the site of the senior high school.

Under local area education planning, discussion on a number of related matters is continuing. However, there is no doubt that such facilities would greatly improve the educational opportunities of goldfields students. Accordingly, I am very pleased to advise that the Government will allocate approximately $12m to fund the construction of a senior campus on the site of the Eastern Goldfields Senior High School.

Although there are senior campuses at other schools, all are located in modified buildings. The Eastern Goldfields Senior High School will be the first Western Australian school to have a purpose built and designed senior campus, with facilities tailored to support teaching and learning into the twenty-first century.

The time line for the completion of the building program is dependent on the local area education planning process. If that process can be finalised by early 1998, it is possible the new campus will be completed during 2000. The latest it will open will be during 2001.

Mr Speaker, I commend the Kalgoorlie-Boulder community for its maturity in addressing this issue in an open and consultative manner, and I look forward to ongoing community involvement in the planning process. I also acknowledge the role played by the member for Kalgoorlie, who has been a constructive contributor to this process and has shown strong support for the school and the community.

BILLS (2) - INTRODUCTION AND FIRST READING

1. Agricultural Legislation Amendment and Repeal Bill.

   Bill introduced, on motion by Mr House (Minister for Primary Industry), and read a first time.

2. Misuse of Drugs Amendment Bill.

   Bill introduced, on motion by Mr Barnett (Leader of the House), and read a first time.

MOTION - SELECT COMMITTEE INTO THE MISUSE OF DRUGS ACT

Final Report - Extension of Time

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

> That the date for presentation of the final report of the Select Committee into the Misuse of Drugs Act 1981 be extended to 21 May 1998.

MOTION

Responses from Persons Adversely Referred to in the House

Resumed from 18 November.

MS McHALE (Thornlie) [11.12 am]: As a relatively new member of this House, it is important to add my reflections on why this is such an important issue for both the parliamentary process and the Western Australian community. It was said by members on both sides of the House that this is an important initiative. We should bear in mind that although we argued yesterday about who introduced it into the House, much of its genesis is in the Commission on Government report particularly in relation to Specified Matter No 19. That matter required the commission to inquire into the operation of the Parliamentary Privileges Act 1891 with a view to permitting proceedings in Parliament to be questioned in a court or like place while preserving the principle of free speech in Parliament. This matter has much of its strength in the work of the Commission on Government and its subsequent recommendations.

It is true that this motion has bipartisan support and I am very pleased that is the case. However, to a large extent that bipartisan support got lost particularly yesterday in what I saw as political sniping on the issue. To some extent, various people claimed credit for introducing it. The member for South Perth believed he was the first one to introduce it and the Deputy Premier thought he was.

Mr Pendal: The record will show who was.

Ms McHALE: Of course we all know that the Leader of the Opposition introduced it. Be that as it may - I am sure that we will all claim credit for it in some way - it is important to appreciate what we are doing with this motion. For the first time we will be allowing at least a response from the community, persons or corporations who are named in this House particularly in an adverse manner.

As a new member of Parliament I see this as a major shift forward. My personal view, rather than my political view, is that I hope it is a shift forward to a different parliamentary process. I am not sure whether that will be the case. However, if we reflect on what we are doing, for the first time we are allowing persons or corporations to have that right of reply which by definition must make us more accountable for what we say and do and bring to this House.

I will reflect again as a new member on the environment in this Chamber. Historically we have behaved in a clearly unambiguously adversarial manner.

The SPEAKER: Order! There are nine conversations going on around the Chamber. It is difficult for me to hear and I am sure it is very difficult for Hansard.

Ms McHALE: I hope that the level of noise by no means suggests the amount of interest in this issue. I am saying

that the environment for a new member of Parliament - perhaps also for those who have been here much longer - is clearly adversarial. Perhaps when we come to look at a code of conduct we should examine whether this is the preferred environment for us to operate in. Members may be happy with that environment - I know those who have been around for a long time have fallen into the practice of baiting and political sniping and, as I said, have treated this place like a bear pit. That is the role model presented to new members.

Mr Cowan: It is not necessarily confined to experienced members. Two of your colleagues are very adept at doing that and have not been here for 12 months.

Ms McHALE: I thank the Deputy Premier. He alluded to my second point that for new members the role model presented is precisely that behaviour.

Mr Cowan: Nonsense. Aren't they capable of making their own choice?

Ms McHALE: I beg to differ.

Mr Cowan: Of course they are. They can choose what they want to do and how they want to be portrayed.

Ms McHALE: The environment in here stimulates members' adrenalin and causes their reaction. That behaviour is replicated. We must question whether that is the behaviour we want in our Western Australian Parliament in the twenty-first century.

Mr Cowan: I agree with you entirely, but they can make their own choice and they have not made very good choices.

Ms McHALE: Again the role model and the environment very much evoke those reactions. I invite the Deputy Premier to demonstrate different behaviour and set a different role model. This is very often a bear pit environment. People in the community believe that it is the environment of Parliament. At other times that is not so much the case and a bipartisan view is taken when we can deal with issues in a fairly calm manner. Some people could find that boring, but it is something we must examine as an alternative.

In that environment of adversity, a bear pit, aggression and freedom of speech people are named adversely in Parliament. Historically, in this Western Australian system they have had no right of reply. This is a critically important shift in the way we will behave in future. It might not change the nature of members' behaviour but it will at least allow people who feel that they have been adversely affected some right of reply, albeit a written reply subject to a number of checks and balances with which the Opposition has no difficulty.

The Opposition believes that a system should be put in place to ensure that written submissions from aggrieved persons are dealt with in a thorough and systematic way.

I highlight the importance of this matter by quoting from page 382 of report No 1 of the Commission on Government, which states -

> It can be seen . . . that a right of response for individuals adversely affected by comments made in Parliament was a high priority for the public. In our view, the extent of public concern demands that a formal right of reply for aggrieved citizens be introduced. This will allay much public concern over the misuse of parliamentary privilege.

Members on this side are very happy that we will now implement that recommendation from the Commission on Government, which will go a great way towards ensuring that there is a right of reply. It will not stop the misuse of parliamentary privilege in any way, but the fact that there will be that point of accountability may prevent members from raising matters or names.

This recommendation should not be regarded as, and I am not saying that it is, an infringement upon the right of freedom of speech. That would be totally antithetical to what I am saying and is certainly not something with which I would agree. Freedom of speech in this House is paramount and must be preserved. It is of interest to note that the Commission on Government recognised freedom of speech as a fundamental tenet of the procedures of Parliament. Freedom of speech has been enshrined in common law for hundreds of years; it is still very much part of the fabric of Parliament, and it should be retained. This recommendation will not cut across that right of freedom of speech in any way, and that is the just and fair position to take.

I will now make some comments about the role of the media. I was alarmed to read the comment of the Attorney General last week that it is all right for members to abuse parliamentary privilege so long as they do not get caught out; the problem that arises is when the media reports it. That is an appalling reflection upon parliamentary privilege, and that has been dealt with both in the media and in this House.

It is interesting to reflect, in the light of those comments from a senior government spokesperson, on what the

Commission on Government said about the role of the media in the misuse of parliamentary privilege, and also about the question of freedom of speech. The following statement at page 388 of report No 1 is enlightening -

> While recognising the problems associated with privileged media coverage of possible defamatory statements made in Parliament, we believe that the solution is at the source of the abuse, rather than through controls on the media. We would not wish to attempt to solve a problem created by the abuse of privilege through any reduction in the existing freedom enjoyed by the media. Instead we believe that Parliament itself should solve the problem of abuse of privilege in accordance with our recommendations.

Clearly, it is saying that we as members of Parliament have a responsibility to look at the way we use, and also abuse, parliamentary privilege. It is not the responsibility of the media, or it is not the fault of the media, that people are ultimately named in the Press.

Mr Barnett: What is your view about the conduct of the member for Willagee with regard to abuse and use of privilege?

Ms McHALE: I am not sure to what the Minister is referring.

Mr Barnett: The article in this morning's paper.

Ms McHALE: I will give the Minister my personal view later. That is not necessarily relevant to this debate. We are talking about abuse of parliamentary privilege in what is said in this Chamber. The point is that it is not good enough to say it is the media's fault, which is what the government spokesperson said last week. It is our responsibility to look at the way in which we deal with parliamentary privilege. It is not a privilege that we are given willy nilly to be used and abused as if we have the sole right over it. We are given parliamentary privilege through precedent, through the recognition by the community and previous communities that that is the way we need to operate in this House so that we can canvas a range of issues and bring matters to the attention of this place.

Mr Barnett: I agree, but as parliamentarians we must be prepared to be judged not on what we say but on what we do.

Ms McHALE: My view is that we are judged on what we say and on what we do. What we say is just as important as what we do as a measure of our integrity and of how we view the responsibilities that are given to us as members of Parliament. Parliamentary privilege is a privilege that we enjoy and will continue to enjoy, and we believe that is the right situation. However, points of accountability will now be introduced.

One minor point that my colleague the member for Burrup raised yesterday is that one gap in this process may be how people will find out that they have been named in the Parliament. The Leader of the House indicated that people will find out ultimately one way or the other: If we mention a person, the government side will dob us in; if the Government mentions a person, we will dob it in. The approach might be more streamlined if it contained the formal step of informing people. That is not included in the recommendation, but it was included in the Commission on Government report, and perhaps it will be a matter of review to see whether word of mouth will be sufficient or whether we will need to accord the aggrieved person a more formal mechanism by which she or he can hear about the adverse mention. That is to some extent a matter of detail in the process rather than of principle.

I regard this recommendation as a step forward in creating a new and perhaps different environment for the Parliament. I am concerned about the traditional way in which we have operated, out of which environment comes the propensity to mention people's names, perhaps without thinking of the consequences. That is a debatable point. It is our responsibility to ensure that parliamentary privilege is used in a fair and reasonable way. It is not the role of the media to control the use of parliamentary privilege.

MR BROWN (Bassendean) [11.28 am]: I wish to make a number of observations about the procedure to change the standing orders. I welcome this proposed change to standing orders. It is always very easy for people to criticise others in absentia, and if there is no right of response, people think that they can criticise without being called to account and without having to put an alternative viewpoint on the record. Generally speaking, the procedure set out in the standing order is satisfactory. However, I wish to comment on the way in which the standing order may be interpreted. I refer to three matters. Paragraph (1) of the proposed standing order states that a person who has been named may make a submission to the Speaker. It states that the name of the person must be used or must be referred to in such a way that the person can be readily identified. In that respect, the Speaker or the committee may need to make some ruling on that point, when the matter arises.

When speaking on issues affecting an individual or a corporation generally, I am loath to name that person or corporation. I prefer to deal with the facts of the matter without naming anyone. However, sometimes it is possible for people to draw a conclusion, rightly or wrongly, that they are the person named or referred to in the speech. For example, during workers' compensation debate, I referred to a fairly prominent specialist around town who has

deliberately placed himself in an office in a building that does not contain a lift. The reason for doing that is because under workers' compensation law, in order to obtain compensation an injured worker is required to attend and be examined by a specialist nominated by the insurers. This specialist has positioned himself on the first floor of a building so that injured workers are required to negotiate the stairs to his office. If the injured party can negotiate the stairs, the specialist is able to say that the workers' leg or back problem, or whatever, is not such that it could cause an inability to negotiate stairs to see him. It is a thimble and pea trick used by a specialist who is mainly used by insurers. If the injured worker does not report to his office, of course he risks compensation payments being cut. If he does report to the office, which means he negotiated the flight of stairs, the immediate conclusion is drawn that the injured person can negotiate a flight of stairs and, therefore, the back or leg problem is not such that it impedes movement. It is a nasty and calculated way to operate. However, if one receives $600 or $800 per opinion and is regularly employed by insurers for that purpose -

Mr Bloffwitch: Are we not debating the right of reply?

Mr BROWN: Yes. I am using this as an example of when I have referred to the facts - not the specialist by name, but to him as being the person operating on the first floor of a building which does not contain a lift, and so on. There may be few people in those eminent positions who say the comment was made about them; therefore, they would want an opportunity to reply to explain why they do that. The reflections being made by the member are not general reflections on people in the medical profession, but on an individual who may think he was identified by those comments because he was the only one, or one of a few, who has such a practice.

I raise this matter in the context of the standing order because it states that a person may make a submission to the Speaker or the committee, if identified by name or otherwise identified. There will be matters the committee must consider such as what constitutes sufficient identification of a person. If a member makes a speech and says that he will not name a person, but describes the person as being 52 years of age, provides the date of birth, and describes the person as having a lot of green hair and wearing an earing in his nose, the chances are the person could be identified -

Mr Bloffwitch: Obviously from your side of politics!

Mr BROWN: Would the member like me to provide another example? We on this side differ from members on that side, because we do not judge people by their appearance; we judge them by their inherent worth. The member for Geraldton has again successfully sidetracked me.

Returning to the point, I raise this matter not as a criticism of the wording. The wording is fair enough. It is possible to avoid naming a person, but to talk sufficiently about the individual or corporation so that they are clearly identified. If one talked about a major alumina smelter in this State, only a few conclusions could be drawn. If one talked about a major diamond producer in this State, probably only one conclusion could be drawn, as opposed to talking about a manufacturing company in the metals industry, which could be one of hundreds. The committee will probably need to consider this matter sooner or later, and whether the committee or the Speaker accepts or rejects a submission on that basis. The reasons provided will be important for Parliament and for the guidance of members. Some members may wish to enter debate but may not have all the facts at their disposal; nevertheless, they wish to raise the matter because it was raised with them by a concerned constituent, but not in such a way that it may adversely or wrongly reflect on a person or corporation. I look forward to some guidance by the committee or the Speaker when these matters are ultimately determined.

The second area in which it will be important to have guidance is paragraph (1)(d) of the proposed standing order, which relates to the Speaker being satisfied that it is practicable for the committee to consider a submission. I am not entirely clear about the practicality of the committee considering a submission. Again, that will be a matter on which we need some guidance.

Paragraph (2) of the proposed standing order provides that the committee may decide not to consider a submission referred to under this resolution if the committee considers that the subject of the submission is not sufficiently serious, and so on. The words on which I dwell are "not sufficiently serious". The question is not sufficiently serious in whose eyes? What test will be applied? If the term "not sufficiently serious" means that it has not been reported in the media, but only in *Hansard*, is it then not sufficiently serious to warrant a response? If, for example, a person is referred to in an answer to a parliamentary question, in which it is alleged what the person did is wrong, although not a criminal offence or a major transgression, is that sufficiently serious in the eyes of Parliament? It might be sufficiently serious in the eyes of the person, because he has been reflected on poorly by the Parliament, and that poor reflection on him - despite the fact there has been no publicity - may nevertheless be of some concern, particularly if the person happens to have a contractual relationship with the Government of the day, whether that person is a government employee or a person with whom a Government of one colour or another is dealing.

It may be a person engaged in an industry, particularly a key player about which Government is considering changes to legislation. The manner to which that corporation has been referred might not have been published on the front page of *The West Australian*, nor might it have been the key item on the Channel Nine News; it may not have been reported even in the most obscure publication in the State. Nevertheless, it might be felt strongly by the individual concerned. I am not suggesting that the mere fact that people feel strongly about a matter should automatically entitle them to have a submission referred to a committee and duly considered.

Mr Johnson: The committee has no brief to determine whether there is any truth in the allegation. It simply determines whether that person was referred to adversely in the Chamber.

Mr BROWN: I accept that. However, the committee is given a discretion and, under this proposed standing order, it may decide not to consider the matter if in its view it is not sufficiently serious. I understand why that is included - otherwise the committee would be required to deal with all sorts of submissions raising spurious points. I understand it is intended to give the committee some latitude to put those issues to one side. However, that is a very broad discretion.

Mr Johnson: The other option is that, if someone is referred to in what they believe is an adverse way in this Chamber, they can write to the Speaker and make a submission that they would like the right of reply and, as has always been the case, they can go to their local member of Parliament or another member who can raise the issue in the Chamber.

Mr BROWN: I agree that they can do that. However, as all members know, the general debates in this Parliament during which members can raise these matters are few, unless one is raising a grievance. I am not sure that unless an issue has been raised by a Minister one member can grieve to another member. I do not think that is permitted in the standing orders.

Mr Johnson: There are the 90 second statements.

Mr BROWN: One would need to be quick. There is no mechanism apart from the general debates. I know some of the general debates are enthralling and that members keenly participate in them. One can tell that by the numbers in the Chamber at the time. The attendance during those debates is perhaps not as large as it is when specific debates take place and when a few members are interested in a particular piece of legislation. Like the member for Hillarys, I am often asked to raise matters in this place, and I do. However, we do not always have the opportunity to do that given the standing orders of the Parliament. Nor can we always do it in a timely manner. If we have a general debate towards the end of the session, I will take that opportunity to raise some general matters that have been raised with me. That will be the first opportunity I will have had to discuss those issues freely.

I hope that the committee exercises its discretion very carefully in excluding what might be highly specious submissions. It should look at the submissions as objectively as possible to determine whether the person was maligned in this House and, if so, to what degree. If that question is answered in the affirmative then, despite the fact that the degree to which they have been adversely reflected upon might not be great, there is an onus on the committee to consider the submission and not simply to reject it on the grounds that it is not sufficiently serious. Ultimately, what the committee determines is another matter. However, I would have some reservations if the committee were to reject a submission at the initial stage on the grounds that in its opinion it was not sufficiently serious.

I look forward to the Speaker's and the committee's rulings, because the degree to which those rulings meet the spirit and intent of the proposed standing order will be the degree to which members and the Parliament are assisted in carrying out their responsibilities.

MR PENDAL (South Perth) [11.47 am]: I will deal with the motion only briefly and touch on a couple of allied issues. First, I support the motion because it takes the issue of breaches of privilege one step further, be they breaches within the House against another member or, in this case, where a member of the public believes that he or she has been unfairly reflected upon.

I will develop some extra arguments to which the Standing Orders and Procedure Committee might give some consideration. I am not sure that the recommendations we will refer to the committee will in any way be adequate to the ultimate task. That begs two questions: First - although I know this does not specifically relate to this motion - are members of Parliament capable of dealing with breaches by their own members? Secondly, are members of Parliament capable of dealing with those other breaches that reflect adversely on members of the public? With the best will in the world and the longer I am in this place, I do not think we are capable of doing either.

People who are sticklers for parliamentary orthodoxy and tradition might say that that is regrettable. I have heard for many years people in this Chamber and those in another place advance the argument that we must never put

ourselves in a position where we are not masters of our own destiny. History has now passed us by. For example, not one week would go by in this Parliament or any other Parliament in the nation during which we did not explore the possibility of removing from a profession the right to scrutinise and oversee the conduct of its members. A point of debate in Western Australia has always been whether we should continue to allow the Police Service to investigate its own officers. Amendments have been made in recent years to give people such as the Ombudsman and others that role. However, my recollection is that we still have not broken that umbilical cord; we still have in place a system whereby the Police Service investigates its own.

Mr Bloffwitch: Not in Western Australia though.

Mr PENDAL: I know we have had some changes, as I have said, but as far as I am aware, we have not reached the point where -

Mr Bloffwitch: We have.

Mr PENDAL: So we have broken that hold.

Mr Bloffwitch: There are no present policemen in the ACC who will investigate police. It is one of its policies.

Mr PENDAL: Okay. That helps to make my point even more strongly: If we have finally made that break and prevented police from investigating their own, maybe we now need to apply that principle to Parliament.

I will be very careful about what I say here as I refer to a matter currently before the court. I was on the original privileges committee following the very unfortunate suicide of Penny Easton. Interestingly, I was the only member of the committee who voted to make a decision that a member had breached the privilege of the House. That was one of the rare occasions in which, apart from one, all members of Parliament, from both sides of the House, stuck together. It was unusual.

Part of my argument is that members cannot be expected to judge their own because partisanship always wins out - it always has done. Maybe we have reached the point in our parliamentary evolution, for example, of needing to add to the privileges protocol a procedure by which a retired judge is on permanent stand by. Reference to this retired judge could appear in standing orders or a Statute. Each time a privilege committee was activated, that retired judge or former Speaker would be brought in to chair a privilege committee to help to moderate the behaviour of members.

That same system might also be applied in cases such as that with which we are dealing now; that is, when someone outside Parliament feels aggrieved by something said by a member of Parliament. Perhaps the Standing Orders and Procedure Committee could look at the prospect of amending standing orders or a Statute so a retired judge could be brought in to chair these committees, and thus moderate alleged breaches in that second instance.

Mr Osborne: What about a university academic?

Mr PENDAL: I have nothing against university academics, and I am surprised that the member for Bunbury, with his academic background, questions that.

I regret to say that in 16 years in this and the other place I have never seen evidence of members of Parliament, when it comes to the crunch, being able to separate themselves from their partisan role and make a decision for the good of the Parliament. Partisanship always wins. In some cases, that is to be expected.

Mr Trenorden: That is not the case in Westminster, where, to its credit, they regularly have privilege committees which work. Members take the attitude that Parliament is more important than parties or members themselves. It does not work anywhere in Australia.

Mr PENDAL: The member is right. Something which works in Westminster cannot work here because of the numbers. They have a truly independent Speaker who is immune from electoral contests, which I suspect sounds pretty attractive to you, Mr Speaker, and to any other Speaker. The member for Avon is right: They can do things in Westminster we cannot do here or in any other Australian Parliament. One problem is the size of our institutions. As the Federal and State Parliaments are small, the intimacy between members is such that people cannot make dispassionate decisions.

People may say that my suggestion is a terrible departure from 800 years of the Westminster system. However, the Leader of the Opposition, who is more knowledgeable than I on this matter, indicates that we do not have the Westminster system anyway.

Mr Trenorden: We have a blend between Westminster and America.

Mr PENDAL: Indeed, the Leader of the Opposition refers to it as the "Washminster" system, which is a pretty good system which has evolved according to the conditions of our environment. As we have been game in the past to

deviate from the traditional system, we should not be too frightened to deviate from it now. I do no more than ask that the Standing Orders and Procedure Committee, when it receives this motion, which will undoubtedly be passed, not only look at the literal terms of the motion, but also seriously consider some extraneous matters members have raised in this debate.

We will not advance the cause of Parliament by giving people the right of reply if that right of reply is ultimately seen to be dealt with in the same partisan way in which breaches within the parliamentary system are dealt with. In other words, the right of reply might sound good superficially, and it could be applied properly for a couple of years and an occasion might arise where everyone in the House feels that the person is justified in feeling aggrieved. However, for a person outside Parliament to feel aggrieved, it must be caused by one of us inside Parliament. Most of us on the inside belong to one of the two major political parties, which draw the battle lines. Therefore, Mr X from south Esperance who has complained that he is aggrieved by a member from one side or the other may find himself confronted with partisanship: The natural supporters of the member who abused the privilege may well gather around that member to protect him. That may result in members on the other side of Parliament saying that they must stop opponents protecting that member who slandered Mr X from south Esperance.

I do not want to be a wet blanket, but it seems that we are certainly making a modest step towards correcting some imbalances. However, we should not get carried away and imagine that it is any more than a modest step. Maybe the Standing Orders and Procedure Committee of this House, and this Parliament under your leadership, Mr Speaker, could take a quantum leap from -

Mr Trenorden: There is an old saying: Journeys start at the first step.

Mr PENDAL: From little acorns do big oak trees grow. Maybe the real contribution of this Parliament could be, instead of sticking too much to orthodoxy, to take a real step forward in protecting the rights of citizens from being unfairly dealt with by members of Parliament.

To the extent that the motion is before the House, I congratulate the Government for, in the main, picking up the Commission on Government's recommendations. I hope we do not limit ourselves by suggesting that it is as far as we can go - it is not. We could well set some new healthy limits if we look beyond the immediate recommendations of the Commission on Government. I support the motion.

MR MARLBOROUGH (Peel) [12.01 pm]: I will take a few minutes of the time of the House to express concerns along similar lines to those raised by the member for South Perth. It concerns me that the process being entered into, which is there to redress some imbalance that has been demonstrated through the public meetings held by the Commission on Government, will eventually be in the hands of a parliamentary committee which has the majority of the Government of the day sitting on it. It is not appropriate at all for the Standing Orders and Procedure Committee as it presently exists to be the body responsible for reviewing whether there is a breach of the privileges that will be in place as a result of the passing of this legislation.

Unlike the member for South Perth, I do not believe the process need go outside the Parliament. My reason is that this legislation is very much a balance of democracy and the degree to which we as members of Parliament should have our present freedom to name people, corporations and organisations. That from time to time may affect them as individuals but at the same time it is used by a member of Parliament to make a strong point, sometimes on behalf of an individual or a group, or express a view in the community. I can see a whole new political opportunity occurring under this procedure where a complaint ends up before a committee with a majority of Government members sitting on it. There is no better example for the opportunities that may exist for political skullduggery than the interjection this morning by the Deputy Leader of the Liberal Party when he referred to an article in this morning's *The West Australian* outlining the role of the member for Willagee. The Deputy Leader of the Liberal Party may want to challenge me under this legislation for saying something about him while he is not here.

Mr Cowan: We have had a couple of people in this Chamber starting to quote this old problem but I am tempted to quote one to you: Is this a case of the pot calling the kettle black?

Mr MARLBOROUGH: As I said earlier, there are differing views on this sort of legislation. I am very supportive of a parliamentary process that has stood the test of time and has been in place for over 400 years. We should not deviate too much from that parliamentary process. An example of the benefit for the community is that the procedures of the House have lasted as long as they have and have spread throughout the world to the degree they have. To the degree we are about to change them to give people the right to reply, we must ensure that the application of the new procedure is correct.

The member for South Perth believes its application should go to some independent body outside of Parliament, such as a judge or an academic. I believe it should be kept within the parliamentary process. The appropriate people to oversee such rulings are the senior presiding officers of both Chambers. They are an independent source for the

Parliament. They give advice without fear or favour to both sides of the Parliament. They are not appointed for a period of service. They are there for the benefit of the Westminster system. This legislation is all about benefiting the Westminster system. This contemplated procedure fits absolutely within their present terms of reference and their capabilities. It takes the process out of the hands of politicians and certainly out of the hands of a committee system which, if we believe the member for South Perth, has a major problem because it has not only members of Parliament judging members of Parliament but also members of Parliament who have a government majority judging members of Parliament, which compounds the problem. The presiding officers are the most appropriate people to look after this legislation. They could sit and decide without fear or favour on the evidence before them. They sit in the Chamber and listen to the debate; they do not participate in the vote.

Mrs Roberts: They have the final say. The committee only makes recommendations.

Mr MARLBOROUGH: To whom?

Mrs Roberts: To the Presiding Officer.

Mr MARLBOROUGH: Let me clarify to whom I am referring because I may not have used the right terminology. When I refer to presiding officers, I am not referring to the Speaker and the President but to the Clerks of the House. My terminology has been incorrect. The Clerks of the House are the four independent people to whom I am referring. After 12 years in Parliament, I still have some difficulty with its terminology and rankings. I am not suggesting that it be in the hands eventually of the President and the Speaker. I am agreeing with the member for South Perth. I asked to speak on this matter not knowing that the member for South Perth was going to raise it.

I am concerned that we are putting the process into the hands of an existing committee known as the Standing Orders and Procedure Committee. That committee makes judgments on all sorts of existing standing orders of the House. By definition and its history it is dominated by members of the Government of the day. Its members are three to two in favour of the Government. The interjection made this morning by the Deputy Leader of the Liberal Party against the member for Willagee indicates that if that is the sort of view he holds of the member for Willagee "misusing" Parliament, he may want to pursue it for purposes best known to himself. What better way to pursue it than for it to end up in a committee that has a majority of like thinking people on it? One could not have a better committee to take it to. Let us remove all of that and be genuine about this matter.

Mr Cowan: Who will make the referral?

Mr MARLBOROUGH: I do not think the referral is the issue. It may well be an outside corporate body.

Mr Cowan: Of course it is the issue. How many members of the Government have ever been before a privileges committee in your time in this place?

Mr MARLBOROUGH: I am not aware of any.

Mr Trenorden: Of course not; only Opposition members go before a privileges committee.

Mr MARLBOROUGH: What is the point the Deputy Premier is making?

Mr Cowan: I would have thought it obvious.

Mr MARLBOROUGH: It is not. Explain it to me.

Mr Cowan: It does not matter what sort of committee we have judging privileges or standards, the House will still make the referral.

Mr MARLBOROUGH: The House will make the referral?

Mr Cowan: It will refer a matter to the committee. I ask again: How many referrals do you expect to get to that committee and from where do you think they will come?

Mr MARLBOROUGH: I do not know how many referrals we will get in Western Australia. We sometimes pride ourselves on being different from the rest of the nation, which often means that we are out of step and dragging our feet. I was advised this morning that in those areas where this legislation has been introduced around the nation - for example, New South Wales in the last two years and federally in the Senate - very few complaints have gone through every one of the procedures in the past 12 months or two years. I do not know what Western Australia will be like.

Mrs Roberts: I am not sure whether the Deputy Premier has it right. A member of the public will put his or her notice in writing to the Speaker, not to this House. The Speaker, not the Legislative Assembly, will then determine what will happen.

Mr Cowan: I do not have any difficulty with referrals to members of the public, but if you are talking about referrals within this place, they will be limited to one side of the House. I got the impression the member for Peel was expanding on this motion.

Mr MARLBOROUGH: I was expanding on this motion. I was using the Deputy Leader of the Liberal Party's interjection this morning as an example of how things could be triggered. I am not saying that if this standing order were in place and if the Deputy Leader of the Liberal Party wanted to trigger that, he would be silly enough to trigger it himself in the House; however, he could have a vested interest in ringing the parties concerned and suggesting they may want to trigger it.

Mr Trenorden: It still must come to the Chamber.

Mr MARLBOROUGH: Of course it must come to the Chamber. However, like the member for South Perth, I believe that once it gets to the body that will make a recommendation that it go further - that is, a recommendation that will see it rejected and/or recorded in *Hansard* - that procedure should not be in the hands of politicians. Unlike the member for South Perth, I do not believe it should go outside the Westminster process. We already have an adequate role model and an appropriate area to which we should give this responsibility; that is, the Clerks of the Legislative Assembly and the Legislative Council. It fits within their present role. Daily, without fear or favour, they give advice to both sides of the Chamber. That is their role. This motion involves advice about standing orders and procedures and the history of the Westminster system - advice that makes the Westminster system move more smoothly and progress in such a way that it continues to be the best model of democracy that we know.

This is a personal belief; I have not had time to talk it over with my colleagues, and it may not be their position: Once carried by this House, this standing order should be considered in the first instance by the Standing Orders and Procedure Committee. The management of the standing order should then be handed over to the Clerks of both Houses so there is seen to be a non-partisan approach to any issues brought before the House, so there is seen to be fairness and equity, and so judgments are made about accountability, honesty and integrity and all of those factors the Commission on Government points to when it says that people feel aggrieved when they have been misrepresented in Parliament. That process is in existence through the Clerks of both Houses and it should be the path down which we head.

MR SWEETMAN (Ningaloo) [12.14 pm]: This motion has bipartisan support. I will put on the record some of the matters that are foremost in my mind. In considering this issue I have looked back in history. I could not see a situation in which Sir David Brand, Sir Charles Court or Mr John Tonkin would have entertained the notion of a standing order such as this. It is probably a further mark against the institution that members accept that this type of behaviour has become so entrenched that by way of inclusion of an additional standing order we are trying to compel members to be a little more circumspect in the way they refer to people outside Parliament. This proposed standing order will not have a great effect on the way members refer to each other across the Chamber from time to time. I suppose no-one is more guilty than the other in this situation and I am not ridiculing any section of the Parliament.

I must make these points because although I am new to this place, I have a responsibility to uphold everything I have been brought up to believe in, including that people should not recklessly and wantonly refer to people outside the Chamber who are not in a position to defend themselves. However, members must retain a right to refer in this institution to people who perhaps live in a twilight zone on the seedier side of the community. The Parliament must retain that privilege. As a consequence of a standing order like this, from time to time when members must refer to people whom the Parliament may know as a consequence of privileged information or whom the community generally may know, but whom the police may have trouble apprehending or against whom they have difficultly getting charges to stick, it will be necessary to name those people in Parliament. The first person to come to mind is one who gets around the streets of this city and generally has his hair in a ponytail. That inference is what the member for Bassendean spoke about earlier: Without naming people one can refer directly to them.

Under this proposed standing order, if someone were to do that in this Parliament, that person's solicitors may work for a week on a response to the Parliament. This institution will be held up to ridicule. Someone who has no moral principle to stand on could make this institution look even more farcical than it need look.

Mrs Roberts: Only if the Speaker agrees to that. The Speaker may determine that it is a vexatious complaint and rule it out of order.

Mr SWEETMAN: I see that as being fraught with difficulty. It will over-politicise the position of the adjudicators in this situation. I am concerned about the member for Peel's suggestion that the Clerks are the most appropriate people to adjudicate or deliberate. The Clerk in the other place and the Clerk here have a high degree of integrity and their reputations are intact. If they are embroiled in deliberations about what is right and proper, there will be

a politicising of their function in the Chambers as well. I take exception to the suggestion that has been raised as an alternative to a committee system to examine this situation.

My preferred option is that members look to themselves in their party structures and try to re-instil some of the discipline they have let slip away over a long period. If an individual does not have the value base to determine what is proper conduct in this House, it should be transferred to the oversight of the party, whether it is the leader of the party or the deputy leader, or perhaps even the Cabinet or the Opposition's Caucus, to deliberate on comments that have been made in this Chamber and determine whether that person should be called to account for someone he or she has defamed in this Parliament. I know it is tantamount to the police inquiring into the police; however, it will bring a better circumspection to the conduct of members in this place. If opposing parties in this Chamber do not agree with that concept, perhaps in a situation like this, when there is bipartisan support for a motion, the leaders of each of the parties and the Independents could speak about the conduct of members in the Chamber and then either ask the person to apologise before the House, or, if the person refuses to do that and the evidence is that the person is culpably wrong in what he or she has said, a formal arrangement should be in place for censuring that person before the House to keep the integrity of Parliament intact. That is what this motion is about.

Although, I am concerned that this is a further devolution of the responsibilities of our institution to formally regulate the process so that people conduct themselves in a certain way, perhaps this is the only way we can overcome a problem that has arisen over time. However, from the beginning it was not so.

Question put and passed.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Committee

Resumed from 13 November. The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Progress was reported after clause 13 had been agreed to.

Clause 14: Section 67 amended -

Mr KOBELKE: The Opposition supports clause 14, which returns to the legislation the ability to offer redemptions. The redemptions exist in a limited form. What is the extent of the proposed new redemption? In order to understand the amendments I would like to take them in two parts. Existing section 67(3) will be amended to apply only to permanent total incapacity. Permanent partial incapacity will be dealt with in the proposed amendments to section 67(2). The proposed amendment to section 67(3) still requires that a worker has attained the age of 55 and that the worker will use the sum for a purpose prescribed by legislation. What are the current prescribed regulations, to what extent do they designate the purpose for which the sum is to be used, and is it intended that the regulations will stay the same or will the proposed amendments change them? Where in the Act as amended will we find the need for employee consent for such a redemption? I understood that the injured worker's consent would be required before a redemption order could be made. It is not clear where that is contained in the Bill.

Mr KIERATH: I have been assured that consent of the worker is required. It is usual for a redemption to be a matter of negotiation between the parties. I am not aware of the provision in the Act, but I will obtain that information for the member.

Mr KOBELKE: The Bill introduces the potential for a redemption where a worker is classified with a "permanent total" or "permanent partial" incapacity. It leaves the matter open for both. The requirement is that the worker has been on weekly payments for not less than six months and fits the requirements of the proposed new subsection 2(a), which requires that the amount be below a prescribed amount. What is the prescribed amount likely to be or has that already been set?

I know that the Minister is keen to ensure that the provisions of the Act encourage rehabilitation. I am concerned about some of the changes proposed by the Minister, because they raise other problems and do not necessarily assist the Minister in achieving that goal. I agree with the Minister's goal to promote rehabilitation and to ensure that the Act, by the nature of its provisions, does not put in place impediments or discourage workers from taking up rehabilitation. However, the legislation states that weekly payments must be below a certain amount, so presumably people who receive large weekly payments will not qualify. Will the Minister indicate how high that hurdle will be?

Paragraph (b) of proposed subsection (2a) gives two other criteria. I read these criteria to mean that people do not have to meet the requirement that the weekly payments be above a certain amount. The second part is wide open. Regardless of how large the weekly payment may be, there could still be a redemption covering permanent, total or partial capacity if people meet the other requirements. A dispute resolution body can determine that a worker has

successfully undergone rehabilitation, but having taken all reasonable steps to obtain employment has failed to do so, or that it is inappropriate for the worker to continue to undergo rehabilitation.

There is some real concern that that will be counterproductive to the Minister's stated intention of promoting rehabilitation. We support what the Minister is trying to do, and I will not seek to amend or to strike out any of those aspects. However, I have some concerns and people have expressed concerns to me that the wording here and the system that will operate under it could be a disincentive to rehabilitation.

Questions will arise about the dispute resolution body and the grounds on which it would make a determination whether rehabilitation has been successful. If the rehabilitation has not been successful, perhaps it is more important to address the rehabilitation procedures, rather than to tell people that that is a ground on which they can receive the redemption, the lump sum payment. The judgment is that all reasonable steps have been taken to obtain employment. Difficulties can be associated with that judgment in terms of the labour market and the skills that, hopefully, those people would have received under the rehabilitation program. At the end of the day it will be a dollar decision, both in terms of the insurer meeting the rehabilitation costs and, more importantly, the injured workers perhaps being enticed out of weekly compensation payments, simply because their difficult financial situation gives them no other option.

Mr KIERATH: I will go back to the beginning. I accept that the member may have some queries about how far this goes; however, without these amendments, there are no redemptions.

Mr Kobelke: Except for those over 55.

Mr KIERATH: This is applying a new area of redemptions where no redemptions are available currently.

Ms MacTiernan: You are saying that we should be grateful for what we are getting.

Mr KIERATH: I am not saying it quite like that, but if the member wants to say it like that, it is up to her.

Ms MacTiernan: You have caught some of the born to rule thing from Foss, I think.

Mr KIERATH: Definitely not. In some cases when people have only a small amount of permanent, partial incapacity and receive $50 a week, it takes a long time to run the prescribed amount down. It was considered a benefit to some parties to allow redemptions in those circumstances. We are trying to be very careful and to allow redemptions in those circumstances where they make sense, without opening the floodgate of redemption altogether. There is a major change - some of the parties have been reluctant to accept it - in that we want to move away from buying someone out once the injuries have stabilised and become permanent, and to engender a culture that it is the responsibility of the parties at the workplace to get the person back to work as quickly as possible. Quite a few of the parties would much rather have an amount of money than go through that process.

To get to the specifics: The rate will be prescribed. The amount for prescription has not been given to me yet, but it will be determined by the commission. The member is right that a dispute resolution body will make decisions about whether the worker has successfully completed the rehabilitation program. It may be established that that has happened, but that it is inappropriate for him to undergo continuous vocational training. There is a bit of a treadmill which people can get on at the moment. We are presently reviewing rehabilitation in total. A change was agreed at the time by all the parties that that would improve the present situation. I will have a Bill before the House next year relating to the rehabilitation review, which will go a lot further with vocational rehabilitation. The bottom line is that some people have gone through rehabilitation whose injury has stabilised. Going through further vocational rehabilitation will not improve their circumstances. In that case, it is considered appropriate for them to have a limited redemption. The member might argue that the redemption should go even further, but all the parties have agreed that there should be only a small redemption.

Ms MacTiernan: Did you tell us the rate?

Mr KIERATH: No. I said that I have not been advised about the rate. It will be determined by the commission.

Ms MacTiernan: On what basis will that rate be determined?

Mr KIERATH: It will be by regulations, which will come before the Parliament. When the amount is set, I will table the regulations before both Houses.

Ms MacTiernan: You must have had some discussion as to what you consider to be an appropriate rate. The fact that there is a threshold indicates that you have some concept that there should be a certain figure.

Mr KIERATH: I have not been given any figure at this stage.

Ms MacTiernan: Have you discussed any figures?

Mr KIERATH: No. No figures have been discussed with me.

Ms MacTiernan: It could be $20 or $200.

Mr KIERATH: It will come from the Workers' Compensation and Rehabilitation Commission. On one hand a series of formulae will probably be set to work out the difference between what the injured workers currently have and the prescribed amount. There will be some sort of adjustment down. It will be worked out to make it attractive enough for people to accept the redemption, bearing in mind that if they do not accept it, they will continue to get the difference made up to the prescribed amount forever, until the prescribed amount disappears. On the other hand, the insurance company will say that if it can be settled earlier, a discount will be offered and some formula will be set for that. I understand the previous cases will be revised under the current circumstances.

Ms MacTIERNAN: I do not want to protract this debate. I understand basically the Minister is saying that what he is doing is an improvement on the current situation, that it will allow a certain percentage of people who are permanently, partially incapacitated to have their claim bought out. It was mentioned that the prime motivation was the pressure from the insurers, who were very concerned that they had to keep files underway for inordinate lengths of time to pay comparatively small weekly payments, and that was not in the interest of efficient administration of workers' compensation. I would like to comment from another perspective.

Mr Kierath: If I had my way, there would be no redemptions at all.

Ms MacTIERNAN: I appreciate that. Fortunately, occasionally good business practice overrides the Minister's ideology and we get a bit of commonsense. I have no doubt that the Minister is genuinely concerned about a culture of cash payment for injury and wants to engender a culture of rehabilitation. That is fine in theory, but in practice I wonder whether the reverse is not happening. I have looked at many of the so-called rehabilitation programs that are undertaken and funded through WorkCover. In many ways they are of a very tokenistic nature. A vast number of blue-collar males in their thirties, forties and fifties have been trained as petrol console operators. I have not seen a petrol console operator in Perth for decades, but we are continually training and rehabilitating people for these sorts of non-existent jobs. The idea that people are put into these rehabilitation programs - I know the Minister is saying that a review -

Mr Kierath: The review has been completed. It should be released publicly very shortly. I have seen the final document. It has come from WorkCover and it will be released shortly.

Ms MacTIERNAN: I do not ask the Minister to pre-empt that report, but are these issues of training for non-existent jobs addressed?

Mr Kierath: Yes. There are concerns that there has been a lot of inappropriate vocational rehabilitation, and the recommendation is that some performance parameters should be associated with some form of performance assessment to make sure people are not being sent for training for the sake of it. The dollar amounts spent on vocational rehabilitation are doubling each period, and we are not seeing the results.

Ms MacTIERNAN: I appreciate this. I am glad that some movement has been made in that direction, but I am concerned that this provision in many ways has the potential to exacerbate the problem of inappropriate rehabilitation. One of the major ways of obtaining a redemption is by completing various rehabilitation courses. There may be motivation to go through various courses, which might not achieve anything, because then a person would be eligible for rehabilitation. In many ways it might have the reverse effect of what the Minister hopes for.

It is a well known psychological condition of compensitis that the presence of a claim and involvement in an ongoing way in a workers' compensation claim are not conducive to speedy recovery.

Mr KIERATH: The member's comments indicate she should support this amendment because it will prevent someone from being continually recycled through vocational rehabilitation. If the dispute resolution body determines that it is inappropriate or that the training will not improve the situation, it can pay a redemption. Without this change, those people are caught up on the vocational rehabilitation merry-go-round and they do not get off that until the prescribed amount for vocational rehabilitation has been exhausted. If the injury has been stabilised and the dispute resolution body acknowledges that no amount of vocational rehabilitation will change that, an award can be made and redemption can be allowed rather than their continuing on the merry-go-round. The only people who gain from that are the vocational rehabilitation providers. It has been said that sometimes it is in their best interests to keep people on that merry-go-round, and this provision will allow a small circuit breaker to be in place. If the dispute resolution body decides it is not appropriate to either undergo or continue with the vocational rehabilitation, it can allow a redemption to take place. That is in the interests of all parties. The Opposition should support this. It might want to take it further, although I do not, but at least it is better than nothing.

Mr BROWN: I welcome this change. The Opposition said in 1993 that it was stupid to knock out the redemption

of earnings for permanent, partial incapacity. It is reversed only slightly by this Bill, but I welcome it nonetheless. I query how it will operate. The proposed new subsection (2a)(a) states that -

> if the rate of weekly payments for the incapacity exceeds such amount as is prescribed by regulation and unless, in the particular case, the worker has special need of the lump sum instead of the continuance of weekly payments and other benefits, or other special circumstances justify the redemption;

In those circumstances the option is available for payment to be made, even where a person is receiving a weekly payment above the amount prescribed by the regulation. Presumably, the review officer or workers' compensation magistrate will determine that. I wish to know the definition of "special need" and "special circumstances". That will exercise the minds of those on the dispute resolution body.

For example, a worker could be permanently, but partially, incapacitated and might wish to settle with a lump sum for redemption because his current situation is such that the lump sum payment will allow him to square off a range of debts and, within new employment or benefit, to manage his life. Assuming this is agreed to by the other side, is that the sort of special circumstance and need the Minister has in mind with this provision? If not, what are the special circumstances and special need? It is important for that to be clearly stated in the Parliament so that the parties charged with the responsibility of interpreting the legislation will be clear about it. For the sake of the record, I ask the Minister to describe the circumstances that those terms are designed to cover.

Mr KIERATH: I am advised that there is already a well established precedent for special needs and circumstances at the Conciliation and Review Directorate. Each case must be reviewed individually. The special need or circumstance might be to cover the payment of someone's mortgage. It might be a reason for taking the redemption, bearing in mind that people with a permanent and partial incapacity who need to make adjustments in their lives might make the case that if their mortgage were off their back it would be a major initiative in their financial life. That might be a reason for granting the redemption.

Ms MacTiernan: Where is the precedent? Is this concept of special need enshrined in some other part of the legislation?

Mr KIERATH: It is based on decisions that have previously been made.

Ms MacTiernan: In relation to what? If decisions are not being made now in relation to special need and partial redemptions, from where is the precedent coming - what sort of decisions?

Mr KIERATH: They are being used where redemptions have been used for total incapacity.

Ms MacTiernan: Does the Act require consideration of special needs?

Mr KIERATH: Yes.

Ms MacTIERNAN: The Minister believes that this will offer some relief from the treadmill of rehabilitation. In some circumstances that may be true. I presume that the rumours around the town regarding the unknown threshold are correct and it will be $150.

Mr Kierath: What threshold?

Ms MacTIERNAN: I am referring to the threshold above which one cannot have an entitlement to a redemption under proposed subsection (2a)(a). A worker who might be entitled to, say, $149 a week might be entitled under proposed subsection (2a)(a) to a redemption. Would another worker who might be on $151 have to go through other steps and use, for example, the proposed subsection (2a)(b) to deal with his claim for a redemption? Given that the threshold is hypothetically $150, must the person on $151, because he earns $2 more than someone else, no matter how inappropriate because of his age or ability, go through a rehabilitation cycle that another person would not have to go through? In those circumstances rehabilitation programs might be undertaken merely to satisfy the requirement of proposed subsection (2a)(b).

The Minister says he wants to change people's mentality of seeking to buy out a claim. In practical terms, as a matter of human psychology, the ability for people to be able to put their accident behind them, to get some sort of genuine compensation in a moral sense for their injury, regardless of rehabilitation, is an important part in the psychology of recovery. It is all very well for the Minister to feel that this is inappropriate and that people should not be looking for a cash payout.

Mr Kierath: Let us knock it out altogether; I will agree with that.

Ms MacTIERNAN: That is being silly.

Mr Kierath: You have made your point. There is no point in going over it; if you do not like it, I will take it out.

Ms MacTIERNAN: The Opposition is highly appreciative as I am sure are the working people of Western Australia that the Minister has been prepared to allow them that small dispensation. I am merely attempting to show that the arguments he advanced for the limitations on these redemptions do not stack up.

Mr KIERATH: The member for Armadale asked what was the threshold level. It has not been set in dollar terms. However, the threshold will be where the administrative cost of making the payment to the worker is equal to the payment being made.

Ms MacTiernan: This Bill has been around for three years. Do you not have some idea?

Mr KIERATH: The commission has not determined an amount yet; we hear the rumours the member for Armadale hears. Without quantifying it, we expect it to be somewhere in that range. However, as I said earlier, the Workers' Compensation and Rehabilitation Commission will now make an accurate determination of that.

Mr BROWN: I thank the Minister for his response to the matters I raised concerning special need and special circumstance. I refer to proposed subsection (2a): Will he confirm that the terms "special need" and "special circumstance" are used in subsection (3) of the Act? Presumably the dispute resolution bodies have made determinations on those two terms in that the determinations they have used are the same interpretations that are to be applied under proposed subsection (2a).

Mr Kierath: We expect so. Subsection (3) provides that it will apply only when the special circumstance of the case justify redemption. The wording is an attempt to reflect what has been established by practice and decisions.

Mr BROWN: I can see this being of some importance to practitioners. Will the terms "special need" and "special circumstance" in proposed subsection (2a)(a) have the same meaning as they have been given by the dispute resolution authorities as they are now used under subsection (3) of the Act?

Mr Kierath: We expect it to relate to the same decisions that have been made, but it must reflect individual circumstances. There will not be a blanket rule. The wording was chosen so that words similar to those that have been made will be made in this case. That was certainly the expectation of the parties on the commission.

Progress reported.

[Continued on page 8210.]

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

FUEL SUPPLIERS LICENSING AND DIESEL SUBSIDIES BILL

Second Reading

Resumed from 13 November.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.35 pm]: The Opposition supports the Fuel Suppliers Licensing and Diesel Subsidies Bill. This Bill seeks to reconstitute licensing arrangements for fuel suppliers and exemption certificate arrangements for off road diesel fuel users and to legislate for subsidy arrangements for diesel users.

This Bill is the first of two Bills necessary to complete the legislative requirements that have arisen since the High Court invalidated State Government franchise fees. The other Bill is the Acts Amendment (Franchise Fees) Bill, which I will be discussing later. The other piece of Western Australian legislation which underpins the safety net arrangement is the Appropriation (Consolidated Fund) Act (No 4) which received royal assent on 23 September 1997. This Act provides a funding mechanism to on pass revenues collected by the Commonwealth on behalf of Western Australia. This Act also provides for interim arrangements for the payment of subsidies to affected retailers.

I will now talk more specifically about the Fuel Suppliers Licensing and Diesel Subsidies Bill. Under previous arrangements, fuel franchise fees were paid each month by wholesale petroleum merchants for the licence period in the following months.

Point of Order

Mr COURT: I am sitting opposite the Leader of the Opposition and I cannot hear what he is saying.

The SPEAKER: Order! I ask the Minister for Health to leave the Chamber because I can hear his comments and those of others. It is not acceptable.

Debate Resumed

Dr GALLOP: Fuel franchise fees represented approximately 9 per cent of all taxes and licences collected in 1996-97. Franchise fees were set at 9.67¢ per litre for petrol, 7.45¢ per litre for on road diesel, while diesel used for off road purposes was exempt. As a result of the High Court decision, the Federal Government has increased its excise rates on tobacco and fuel and its sales tax rate on liquor to replace the forgone state franchise fees on these products. This increase has been set at 8.1¢ per litre for all types of fuel, and the Federal Government is bound to keep its taxes uniform across all jurisdictions. The Federal Government then reimburses the States for their lost revenue.

To ensure users of certain types of fuel do not experience significant increases in prices, subsidy arrangements have had to be put in place. These subsidy payments have already commenced under the interim authority of the Appropriation (Consolidated Fund) Act (No 4) and individual contracts between the Government and recipients. This Bill seeks to legislate those subsidy arrangements. It involves paying fuel companies a subsidy of 8.1¢ per litre on off road diesel and 0.65¢ per litre on road diesel fuel. As the commonwealth tax on petrol is lower than the previous state franchise fee, no subsidy scheme is in place for petrol. Suppliers can only receive subsidies if they are "licensed suppliers".

The scheme requires all suppliers who first supply petroleum products in Western Australia to be licensed and thereby able to receive a subsidy on the sale of and for the payment of subsidies for certain diesel. To be eligible for the subsidy, all licenced suppliers which apply for the general subsidy must ensure that the selling price for diesel is reduced by an amount equivalent to the general subsidy rate. The off road diesel subsidy applies in respect of supplies to all off road users certified in Western Australia. Certified users can be supplied by either licensed suppliers or authorised distributors.

As described in the explanatory memorandum accompanying this Bill, an administrative fee is also introduced to replace the previous ad valorem franchise fee on fuel suppliers. This is constitutionally okay because it is a licence fee and does not relate to the volume of production which came up against the decision of the High Court of Australia. I was assured in the briefing on this Bill that this fee is not new; it simply replaces existing arrangements. I was also told that this fee will be applied to only six major fuel companies and will be set at approximately $1 000 per annum. The cost of the diesel subsidy arrangement is estimated to be $209m per annum in the case of off-road diesel fuel, and $4.5m per annum in the case of on-road diesel fuel. The net effect on the consolidated fund, we have recently been told, is that there will be a $14m shortfall in revenue. This is expected to contribute to what appears as a ballooning budget deficit in 1997-98.

The safety net arrangement as a whole is complex and cumbersome. It places a number of obligations on a number of parties involved in purchasing and supplying diesel products. This arrangement is, therefore, clearly not the appropriate method by which to respond to the High Court decision in the long term. Reform of commonwealth-state financial relations is clearly the long term solution to the problems posed by the High Court decision. In the meantime, however, it is hoped that the review of the safety net arrangements scheduled for February will ensure that Australian consumers are not adversely affected by the safety net arrangements.

The Opposition supports this legislation. It will provide for the subsidy by way of legislation, and that will make it absolutely clear that the administrative arrangements that have been put in place have the force of law behind them, and we support that. It will also put in place the licence fee mechanism which will provide the revenue to allow for the administration of these arrangements.

The Opposition was advised during the briefing that about $6 000 per annum will be collected from the six fuel licensees that will be required to pay the annual fee of $1 000. We are not talking about a huge amount of revenue that will come from these new licensing fees. Therefore, the Opposition indicates its support for these two measures, both the subsidy arrangements and the licensing fee, but points out, as I believe it is obliged to do, that this can only be an interim arrangement. We look forward to a proper resolution of the current federal-state financial imbroglio.

MR COURT (Nedlands - Treasurer) [2.42 pm]: I thank the Leader of the Opposition for his support for this legislation. He is quite correct in saying that this is an interim measure. The decision of the High Court of Australia has highlighted the inadequacy of the revenue raising options of the State Governments. This arrangement has proved to be very difficult to implement, particularly in Queensland because it did not have the charges in place. Queensland has now had to introduce some arrangements where those at the retail point must claim the moneys back, and it is trying to stop the flow of fuel from Queensland to New South Wales. These arrangements are unsatisfactory. They have provided a catalyst for bringing forward changes to both revenue sharing and taxation collections in this country. Again, I thank the Opposition for its support

Question put and passed.

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

ACTS AMENDMENT (FRANCHISE FEES) BILL

Second Reading

Resumed from 13 November.

DR GALLOP (Victoria Park - Leader of the Opposition) [2.44 pm]: The Opposition supports this Bill, which seeks to amend a number of Acts, including the Business Franchise (Tobacco) Act and Liquor Licensing Act, by making changes to those portions of the relevant Acts which impose an ad valorem fee. Along with the Fuel Suppliers Licensing and Diesel Subsidies Bill, this Bill seeks to complete the legislative requirements arising in Western Australia from the decision of the High Court of Australia on franchise fees.

I will now discuss some of the proposed changes under this legislation. It is important to note that, as in the case of diesel fuel, a number of subsidy arrangements proposed in this Bill are occurring currently under interim authority of the Appropriation (Consolidated Fund) Act (No 4) and individual contracts.

Prior to the High Court decision, the State Government levied franchise fees on alcohol and tobacco products. These provided a significant source of revenue for successive State Governments. Revenue from alcohol and tobacco franchise fees was approximately 14 per cent of all taxes and licences collected in 1996-97. State government franchise fees stood at 11 per cent for full strength liquor and 7 per cent for low alcohol products, while there were exemptions for all cellar door wine sales.

Under the safety net arrangements negotiated after the High Court decision, the Federal Government increased its federal sales tax by 15 per cent, which is equivalent to an increase in a state franchise fee of 12 per cent. The federal sales tax increase applied to all liquor products, including low strength liquor and cellar door sales, which were treated differently under the state franchise fee arrangements. The proposed amendments to the Liquor Licensing Act make provision for the permanent subsidy arrangements for low alcohol liquor and cellar door wines to continue. The net effect is that prices of low alcohol and cellar door wines should not increase. High alcohol products, which previously had a franchise fee of 11 per cent and which are now being subject to the equivalent of a 12 per cent franchise fee, are not being subsidised by the State Government. This results in a higher revenue for the State Government and slightly higher costs in high alcohol products for consumers.

This Bill also provides for a prescribed fee to replace the ad valorem franchise fees for liquor retailers. This fee will apply to approximately 3 000 retailers and will be set at approximately $105 per annum. This fee is expected to impose additional costs to retailers. It is estimated that about $300 000 in revenue will come from the licensing arrangements and the proposed fee for each retailer of $105. That revenue will go into the administration of the scheme for the subsidy arrangements.

In addition to this fee, there are a number of other arrangements, such as exempt mail order sales solicited off the producer's licensed premises from the wine subsidy, and setting limits on individual cellar door sales. These proposed arrangements, some being of particular significance, are not included in this Bill, but will be included in regulations to be tabled at the end of 1997.

It is important to note that within this legislation there is the understanding that further regulations will follow. I am concerned that this move will limit discussion on such proposed changes. Of course, that is always the case when the regulation path is chosen. The total cost of the liquor subsidy scheme is expected to be $8m per annum in the case of low alcohol liquor, and $3m per annum in the case of cellar door wine.

I move now to the arrangements proposed for tobacco products. This Bill seeks to amend the Business Franchise (Tobacco) Act so that previous monthly licensing arrangements will be replaced with an annual licensing regime. Again, the estimate given to the Opposition is that $18 000 per annum will be collected from the annual $1 200 fee on approximately 10 tobacco wholesalers and the $600 annual fee on approximately 10 tobacco retailers, or importers. That gives some idea of the revenue to be collected under these new licensing regimes. The Bill also provides for the continued appropriation of certain funds, previously paid from tobacco franchise fees, to the health promotion fund. The continuation of these arrangements is an important element of this Bill.

The Government is currently anticipating a $26m consolidated fund shortfall under the tobacco safety net arrangements. That has been given some publicity in recent days. I was pleased to note from the second reading speech that -

> Accordingly, no reduction in road funding in future years is expected as a result of the High Court decision.

Indeed, the safety net arrangements will allow for an appropriation of $244.6m in 1998-99, $250.3m in 1999-2000, and $256.2m in 2000-01. In other words, the argument of the Minister for Transport that the High Court decision

was the reason for proposing an additional $52 fee for motor vehicle licences is based on a myth. He proposed the increase in licence fees to cover the increase he had intended to impose on fuel taxes in Western Australia. Of course, he cannot impose that increase because those franchise fees have gone to the Commonwealth. This State will still receive revenue under the financial arrangements entered into with the Commonwealth.

As I commented before, these safety net arrangements are complex and cumbersome. They should not be seen as the long term solution to the questions the High Court decision presented. Reform of commonwealth-state financial relations is clearly the long term solution to the problems posed by the High Court decision.

MR COURT (Nedlands - Treasurer) [2.53 pm]: I thank the Opposition for its support of this legislation. I give notice that at the Committee stage I will move an amendment. Advice has been received by Treasury that this amendment is necessary. I apologise to the Leader of the Opposition for the short notice, but he saw a copy of the amendment three minutes after I did. My officers have been to his officers to explain the amendment.

The Leader of the Opposition is correct in saying the arrangements are complex and cumbersome but necessary, unfortunately, to protect the State's revenue position.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 53 put and passed.

Clause 54 put and negatived.

New clause 54 -

Mr COURT: I move -

Page 28, line 8 - To insert the following new clause -

Section 3 amended

54. (1) Section 3(1) of the principal Act is amended by deleting the definition of "State Taxation Act" and substituting the following definition -

" "State Taxation Act" means the -

Debits Tax Assessment Act 1990;
Financial Institutions Duty Act 1983;
Fuel Suppliers Licensing and Diesel Subsidies Act 1997;
Land Tax Assessment Act 1976;
Pay-roll Tax Assessment Act 1971;
Stamp Act 1921;
Tobacco Sellers Licensing Act 1975,

and any other Act prescribed by regulation for the purposes of this definition.
"

(2) Section 3(2) of the principal Act is amended by inserting after paragraph (a) the following paragraph -

" (ab) a law of the Commonwealth or of a State (other than Western Australia) that provides for the payment of a subsidy in relation to any goods to be recognized revenue law for the purposes of this Act; "

The new clause seeks to insert into the Taxation (Reciprocal Powers) Act 1989 an additional clause to allow safety net subsidy legislation enacted in other States and Territories to be recognised for the purposes of that Act. The Taxation (Reciprocal Powers) Act put in place arrangements to allow for controlled exchange of information and reciprocal taxation investigation powers between the States, Territories and the Commonwealth. As a result of the proposed amendment it will be permissible for an investigation to be performed in Western Australia with respect to subsidies provided in other States and Territories. More specifically, it will allow investigators from other States and Territories to investigate subsidy claims where relevant records are maintained.

For example, a fuel company may claim a fuel subsidy in New South Wales but for some reason hold certain records

relating to that claim in Western Australia. The amendment will enable officers from the New South Wales Office of State Revenue to access those records for auditing purposes. The State Revenue Department became aware only this week that other States are proposing a similar reciprocal arrangement in their section 90 related legislation. I apologise to the Leader of the Opposition for the lateness of notification of the amendment, but I am advised it is preferable for it to be included.

Dr GALLOP: The Opposition supports the insertion of this new clause into the legislation to allow for proper auditing of the subsidy information throughout the Commonwealth.

New clause put and passed.

Clauses 55 to 60 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Court (Treasurer), and transmitted to the Council.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting.

The Deputy Chairman of Committees (Ms McHale) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Clause 14: Section 67 amended -

Progress was reported after the clause had been partly considered.

Mr BROWN: As I read existing subsection (3) it gives access - I do not mean with these amendments - to people who have been permanently and totally disabled to obtain a redemption when a special need exists for a lump sum rather than continuance of weekly payments. There is a two part requirement - first, a special need at the beginning and second, special circumstances of the case must justify the redemption. The requirement in proposed subsection (2a)(a) is that that is now disjunctive. The word "or" appears between the test. The test as I see it in the existing legislation is such that one must meet the double barrel test; whereas proposed subsection (2a)(a) seeks to provide that one must meet only a single barrel of those tests.

Mr KIERATH: I am advised that in the present subsection there is a double barrel test and in the proposed subsection there is not.

Mr KOBELKE: I appreciate that the Minister through this amendment is allowing for redemptions. One hopes, perhaps forlornly, that more examples will arise of his taking the advice of departments and people well versed in this area rather than following his personal dictates. He clearly stated he was opposed to redemption; nonetheless, he has been willing to listen to substantial arguments for allowing at least some measure of redemption.

Regarding the technicalities of allowing for redemption, there is no perfect answer. It is a very difficult area. I hope we can address these issues in a pragmatic and commonsense way to achieve the best possible outcomes. If we start from ideological positions we will get nowhere. If we start from the position of looking just at certain vested interests, whether it be those of the insurer or unions, again we will get nowhere. The member for Armadale has pointed out in part that a range of complex matters is involved, such as the psychology of injured workers. We want to put in place a system that is efficient and achieves the best possible outcomes for injured workers. If we approach this matter in a bipartisan way and look at the advice of WorkCover about how this system can be improved, I believe we will see improvements.

We may need to revisit this matter at some later date. It may be proposed that people who have a partial permanent incapacity receive ongoing payments while they also receive some payments from their employer, in order to get them back into the workplace. There is a range of possibilities. I am thankful for this small move, but I do not suggest that it will solve all the problems in this complex area.

Will it be essential to have the consent of the injured worker before these redemption provisions will apply? That is our understanding of what the Minister has said, but I cannot find that in the legislation.

Mr KIERATH: I cannot locate that section of the Act and neither can the adviser, but we assure the member that the parties must agree to the redemption, because it involves the giving up of an entitlement or right. If agreement is not reached, the other provisions of the Act will continue. The Director of Conciliation and Review will also have to approve of the redemption, so that is an additional safety check.

Mr KOBELKE: Section 67(3)(b) states that the worker will use the sum for a purpose prescribed by regulation. What is the current regulatory requirement, and is that likely to change given the amendment to this section?

Mr Kierath: We cannot provide that information at this time. We will provide it later.

Clause put and passed.

Clauses 15 to 17 put and passed.

Clause 18: Section 84A amended -

Mr KOBELKE: I acknowledge and support the extension to the definition of "dispute" to include an argument between an employer and an insurer. That extension is likely to be in the interests of workers and other parties, who often find that matters are tied up in the system and a determination needs to be made.

It is proposed to add a new paragraph (b), which refers to section 67(2a)(b). How will that work? We support the intent, but the wording is a little unclear. Does it provide the same head of power, by its inclusion in the definition of "dispute", as we find in paragraph (a)? The legal statement seems to take a different form.

Mr KIERATH: The stage of conciliation and review can be reached only if there is a dispute. This paragraph is a parliamentary draftsman's technique for achieving what is required. It is necessary to provide that that body has the head of power to make that decision.

Mr Kobelke: I understand the intent. Is the Minister saying that it is judged on the legal advice to be fully effective?

Mr KIERATH: Yes.

Clause put and passed.

Clauses 19 to 21 put and passed.

Clause 22: Sections 84R, 84ZH and 84ZR amended -

Mr KOBELKE: This clause amends section 84R, which is within division 2 -Conciliation; section 84ZH, which is within division 3 - Review; and section 84ZR, which is within division 4 - Determination by Compensation Magistrate's Court. The Act provides that matters can be referred to a medical assessment panel. Section 84R states -

> If required to do so under Part VII, a conciliation officer is to refer a question as to the nature and extent of a disability, or as to whether a disability is permanent or temporary, for termination by a medical assessment panel.

This amendment requires the medical assessment panel to consider also a worker's capacity for work. I have some concern about that matter, because I do not believe that medical practitioners necessarily have the professional expertise in that area. They certainly have the expertise to consider the medical evidence that may affect a person's capacity to work, but capacity for work is a bigger issue of which the medical evidence is only one part.

The Minister will correct me if I am wrong: The decision of the medical assessment panel is not open to question. Matters of law may be open to question, but the expertise of the panel on three aspects - the nature and extent of the disability, whether it is permanent or temporary, and the worker's capacity for work - would not be matters that could be challenged or appealed against through the processes laid down within the Act. Further, no report of the determination is made, which could lay down case law - to put it that way - regarding the basis for making the determination. Therefore, a worker with a very similar medical case history, and perhaps similar educational and working experience, could not be compared with someone on a similar basis a year or two before. Even if it were possible, when considering the capacity for work there is still the problem that the job market may change. In upholding the rights of the injured worker I can see difficulty in establishing an objective and fair system, which is the normal process established through the Act: Reports are made as to the reasons for determination and avenues of appeal are available; we have an open system in which people can assess and use the reasons for the judgment as a basis for appeal, and they can inform further cases of a similar nature. I have difficulty with the inclusion of the "worker's capacity for work" as a matter to be determined by a medical assessment panel.

Mr KIERATH: Each panel is separate, and deals with matters presented to it. The labour market is not an issue. The issue is the capacity for work.

Mr Kobelke: The capacity for work cannot be separated from the availability and opportunity for work and the nature of work. It makes no sense in the abstract. The capacity for work must be based on a judgment of what work is available in the employment market, the skills required for the employment, and whether the rehabilitation and general background education and work experience of the person may suit him to have a capacity for work.

Mr KIERATH: That is a matter for conciliation and review. It is not a matter for the medical assessment panel. The matter for the panel should be only whether a person has the capacity for work. The other matters would be part of conciliation and review.

Mr Kobelke: I understand the meaning the Minister places on the words. I accept that his is a genuine understanding of the words. My concern is that the words in the amendment have wider meaning and will allow cases to go to the medical assessment panel that rightly require consideration by people with expertise in the employment and rehabilitation areas.

Mr KIERATH: We are trying to divorce the two. The medical issue is a matter for the medical assessment panel. If the issue goes beyond that, it will be a matter for another part of the body set up to deal with disputes.

Ms MacTIERNAN: Why not delete "capacity for work"? Surely the nature or extent of the disability, and whether the disability is temporary or permanent, are medical issues. They are issues that doctors are trained to deliberate upon. The member for Nollamara has rightly pointed out that the Minister has added to the purely medical aspects the third category of "a worker's capacity for work". That is not simply a matter to be determined on the basis of medical evidence. It requires an understanding and appreciation of the requirements of the workplace at a particular time - what is available in the workplace and what is required. It is no good making that assessment unless one has a detailed knowledge and understanding of the workplace and the jobs that are available in the community at the time. The Minister has said that he wants to separate them, but also he has placed an obligation on doctors that they are not equipped to discharge.

Mr KIERATH: I have said it before: It is up to the doctors to decide whether a person has the capacity for work.

Ms MacTiernan: That is not a medical matter.

Mr KIERATH: It is a medical decision whether a person has the capacity for work. The work available and other matters associated with it are matters for the conciliation or review officer. This ensures that the medical assessment panel considers only the medical issue; the other labour market issues are part of a conciliation or review. The medical assessment panel should make judgments only on medical matters.

Ms MacTIERNAN: To give an analogy so that the Minister can understand, a person may be a paraplegic and may have another disability as well. At the turn of the century that person would have had no capacity for work simply because there were no jobs that person with those disabilities could have undertaken. Today it is a different story. Today, with so much work involved in information technology, a person with such disabilities would not be precluded from work. An assessment of capacity for work cannot be made without a detailed understanding of the labour market and the physical requirements of particular jobs.

Mr KOBELKE: I refer here to another amendment to section 84R. The first part is changed to read "if permitted by section 145A to do so a conciliation officer may refer a question". First, it must be permitted by section 145A; and it then states that the conciliation officer "may" as opposed to the existing wording "is to". It gives greater power to the conciliation officer to determine whether a matter will go to the medical assessment panel. I have some understanding of the Minister's intent: If the conciliation officer does it correctly and notes that it is a medical aspect rather than an employment aspect predominantly, it is all right. Am I correct in saying that a decision of the medical assessment panel cannot be challenged?

Mr Kierath: That is right.

Mr KOBELKE: Is a written report made available to the injured worker or is it just the decision?

Mr Kierath: The decision of the panel is available -

Mr KOBELKE: Does the report contain the full reasons for the determination?

Mr Kierath: A report is written. I have not seen all of them, but generally a report is available.

Mr KOBELKE: I have not seen them either. I am told that it is simply a decision without any fine detail to enable people to question the judgment of the medical panel. Given that people cannot appeal, it would be of limited or no use.

Ms MacTiernan: They could have an administrative review.

Mr Kierath: That is all they could do.

Mr KOBELKE: But not the determination on a medical basis of the medical panel.

Mr Kierath: That is right.

Mr KOBELKE: The medical assessment panel may make a decision about the capacity for work which could go beyond a medical decision. I understand what the Minister is saying and accept that it will work well as long as it does not move outside what are clearly medical issues. There is the possibility of that happening, and that is my concern.

The second point relates to the requirement that it must be permitted by section 145A. In some measure this supports what the Minister is saying. If one is required to meet the conditions of section 145A, which is subject to subsection (2) - I will not go into that because it relates to particular degrees of loss in respect of back, neck and pelvis - the case is referred to a medical assessment panel only if there is a conflict of opinion between the medical practitioner engaged by the worker and the medical practitioner provided and paid for by the employer and so on, and one of the parties wishes the proceedings to continue.

Mr Kierath: That is right.

Mr KOBELKE: I understand the Minister's intention, and that strengthens it. If there is a conflict between medical advice being given that goes beyond the normal confines of medical advice and moves more towards employment prospects, that matter can still be referred on. The insurer or the employer may want it referred on because they think they can get a medical determination moving outside that restricted area of pure medical advice. There is some logic in what the Minister is saying - that is, he wants to restrict it to medical decisions - but the wording will be interpreted by people other than him and me. As the Minister knows, once this gets into the system it has a life of its own. As it now stands, it could be interpreted more broadly, and doctors could move in that area. Therefore, I move -

Page 15, lines 9 to 19 - To delete the lines.

Ms MacTIERNAN: I support the amendment.

Mr KOBELKE: The amendment seeks to remove the ability for the medical assessment panel to make a determination on a worker's capacity to work. The current Act does not include reference to a worker's capacity for work. If we pass this amendment, the only change will be that the proposed reference to a worker's capacity to work will be omitted. The Minister can correct me if my understanding is wrong. The Opposition accepts the rest of the clause but seeks to remove a medical assessment panel's ability to make a determination in respect of a worker's capacity to work.

Mr KIERATH: This is a second attempt at clause 13. The Government rejected the arguments put forward in respect of that clause, and will not entertain them now. I hoped that that issue had been dealt with, albeit reluctantly. This would cause real problems and I am not prepared to accept it.

Mr BROWN: I support the amendment. The medical assessment panel is comprised of medical practitioners with skills in determining the nature of disability and whether it is permanent or temporary. Medical practitioners do not have knowledge about all jobs and all work carried out in all workplaces. They therefore cannot make a determination about a worker's capacity for work. It is not a proper assessment. It is only half of the assessment that is to be made and it is wrong for that to be done. That is why I support the amendment. I thought that we were attempting to provide some justice in the workers' compensation system. That will not happen by giving this task to medical practitioners when they do not have the knowledge to undertake that task.

Mr Kierath: Who certifies people fit or unfit for work?

Mr BROWN: They certify them on the basis of their medical condition, not on the basis of the nature of the work they perform. If a person goes to a medical practitioner sick with the flu or some other ailment, the medical practitioner does not ask the nature of his job, what skills, muscles or mental dexterity are required, assess whether that worker can do that work, and then provide a certificate. The medical practitioner examines the degree to which a person is incapacitated and then makes a general decision, given the illness, disease or injury, about whether a person is fit to work per se. That decision does not take into account the specific nature of the work. There is a very significant difference between the two. It is unrealistic and wrong to impose this type of obligation on a medical assessment panel. There are differences between different disciplines in the medical profession. If one asks a rheumatologist about a person's medical condition, he or she may come to a conclusion. If one asks an orthopaedic surgeon about the same condition, he or she may come to a different conclusion. There can be stark differences of opinion within disciplines and between disciplines in the medical profession. To hand over this task to a medical assessment panel is unreasonable.

For the reasons previously outlined by the member for Nollamara, I support the amendment. I do so not for the sake of some academic change to the wording but because, as someone who has worked as a compensation officer, who has had to deal with problems in the system and who has seen workers genuinely denied compensation, I am concerned about any change to the legislation that will deny a worker proper compensation when he or she has been injured in the workplace. I urge members to support the amendment.

Amendment put and a division taken with the following result -

Ayes (18)

Ms Anwyl	Mr Kobelke	Mr Riebeling
Mr Brown	Ms MacTiernan	Mr Ripper
Mr Carpenter	Mr Marlborough	Mrs Roberts
Dr Edwards	Mr McGinty	Mr Thomas
Dr Gallop	Mr McGowan	Ms Warnock
Mr Grill	Ms McHale	Mr Cunningham *(Teller)*

Noes (31)

Mr Baker	Mrs Hodson-Thomas	Mrs Parker
Mr Barnett	Mrs Holmes	Mr Pendal
Mr Barron-Sullivan	Mr House	Mr Prince
Mr Bloffwitch	Mr Johnson	Mr Shave
Mr Board	Mr Kierath	Mr Trenorden
Mr Bradshaw	Mr MacLean	Mr Tubby
Dr Constable	Mr Marshall	Dr Turnbull
Mr Court	Mr McNee	Mrs van de Klashorst
Mr Cowan	Mr Minson	Mr Wiese
Mrs Edwardes	Mr Omodei	Mr Osborne *(Teller)*
Dr Hames		

Pair

Mr Graham	Mr Ainsworth

Amendment thus negatived.

Mr BROWN: Clause 22 will amend, among others, section 84R of the principal Act, and the opening words of section 84R(1) read -

> If required to do so under Part VII, a conciliation officer is to refer a question as to . . .

It then outlines various matters. When the conciliation officer is dealing with claims, he has an obligation to refer a matter to a medical assessment panel under part VII, which deals with medical assessment panels. Those words are to be changed so the section will read that the conciliation officer is to be permitted "to do so by section 145A". The change, as I read it, is that the conciliation officer will be required to refer to a medical assessment panel those matters -

Mr Kierath: The "is to" is to be deleted and "may" is to be inserted.

Mr BROWN: So a discretion will apply on whether the conciliation officer may refer a question.

Mr Kierath: That is right.

Mr BROWN: The Minister is correct as the "is to" is to be deleted - I had not read that. Is it then the intent, given that no words are changed without rationale, that the officer will be given greater discretion on whether to refer a matter to the medical assessment panel?

Mr KIERATH: The idea is to give conciliation officers the discretion not to refer minor matters, in which case the officer need not undertake the expensive and time-consuming process. That situation requires some discretion. A minor matter can be sorted out then and there. Such administration should lead to quicker resolutions of such disputes.

Ms MacTIERNAN: The previous situation - the Minister should correct me if I am wrong - was that the referrals to the medical panel had a restricted jurisdiction. We agree that the panel will have a broadened responsibility in the decisions it makes. Was there previously a right of appeal against the medical decisions?

Mr Kierath: No.

Ms MacTIERNAN: I guess it was not so important in the past then. However, our concern is that no right of appeal is available, yet the medical panel is to be given a larger job to perform; namely, to decide whether a person is fit to go back to work, and whether that person has the capacity -

Mr KIERATH: The medical assessment panels are doing this in practice and most of the parties are happy. One of the parties appealed to a magistrate's court which ruled that on the strict interpretation of the law the medical panels did not have the power. We are including this clause to make it very clear that legally they have that power.

Ms MacTIERNAN: The fact that the medical panel will be making decisions which go well beyond those of a medical nature and there is no right of appeal is quite worrying. We may see considerable injustice from time to time perpetrated on an injured worker.

Clause put and passed.

Clause 23 put and passed.

Clause 24: Section 84Y amended -

Mr KOBELKE: The Minister will help with an amendment. Section 84Y(1) currently reads -

> A conciliation officer is to refer a dispute for review if any of the parties so requests.

I understand that the Minister and WorkCover are concerned that parties before a conciliation officer have simply used noncooperation and being totally unreasonable as a way of having the matter taken out of the hands of the conciliation officer and progressed further through the system. The Minister wishes to address that. If that is the case, the amendment will require that unreasonable parties can be held before the conciliation officer until they have made some attempt to resolve the matter at that conciliation stage. If they have made what is judged to be a reasonable attempt to solve the matter and have not been able to do so, the conciliation officer may then pass it on. I do not believe that the amendment achieves that, although it may be the intent. If conciliation officers apply commonsense, even with this amendment the law will work. However, we do not put laws in place on the basis that commonsense will get around the words if they are not right. If amended, subsection (1) would read -

> A conciliation officer is to refer a dispute for review if any of the parties so requests unless of the opinion that any of the parties has not made reasonable endeavours to have the dispute resolved through conciliation.

As I have tried to point out, if the conciliation officer formed the opinion that a person was being unreasonable, under this law the matter could not be referred. We do not want to tie it down that tightly. We want to give flexibility to the conciliation officer so he can put a bit of pressure on the parties to try to negotiate reasonably and properly to try to come to a determination. Where that is not possible, the conciliation officer must be able within the law to refer it. The words in the amendment to the Bill are too constraining. If they were followed specifically the conciliation officer could have his hands tied when he might wish to refer on a case for review in order to help the person being reasonable. As the clause is currently worded he would be bound by the fact that one of the parties was being unreasonable and he would not be able to do so.

Mr KIERATH: I move -

> Page 16, line 22 - To delete "unless" and substitute "but may refuse to do so if".

Mr KOBELKE: I thank the Minister for the amendment. It takes up the concerns I raised. It gives flexibility to the conciliation officer to try to resolve the matter. If he believes, acting under the amended form, that it would be better to hold the matter where it is for conciliation and put further pressure on the parties to come to some reasonable agreement, the amendment gives that power. If one of the parties is being unreasonable and the conciliation officer judges that the only way to get the matter resolved is to take it further and get it reviewed at another level, that power is available under the amendment moved by the Minister.

Mr BROWN: I am interested in getting on the record some indication of how this may work. The conciliation officer is charged with the responsibility of trying to get agreement between parties. Ordinarily that is a fine process. However, the workers' compensation process needs to be separate from the arbitration process. In this case we are dealing with people's rights. It has been reported to me that in some conciliation sessions one party has tried to insist on another party forgoing some of their rights in order to get agreement. I have major concerns about that process, if it is going on. Parties should not have to cede their rights in this conciliation process. I am given to understand that in some conciliation processes it has been put to injured workers that a way through the problem might be that the insurer will pay the injured worker but not accept liability. Therefore, the person continues to receive weekly payments for a period but no liability is accepted, or some payment is made to end the matter, if it is a smaller claim, but liability is never accepted. I have some grave reservations about that process because sooner or later it will

significantly deny people their rights. Someone might say, "This piece of legislation applies to compensation. I have been injured at work. I am entitled to compensation. I am not accepting weekly payments on the basis that the employer does not accept liability. This is my right." If that person was taken to be unreasonable because pressure was put on him to relinquish his rights in order to reach "agreement", I would have major reservations about the veracity of that process when it is dealing with rights as opposed to arbitrary claims. I would like some assurance from the Minister that, firstly, the rights of parties will not be curtailed through this process; and, secondly, that will not be the result of any proposed change.

Mr KIERATH: I am advised that most people use the conciliation provisions well. In the circumstance that the member for Bassendean described, if people have sought legal advice, they can get through the conciliation stage without conceding those rights. Unfortunately, a handful of legal firms and operators try to frustrate that section of the Act and bypass conciliation and do all their work at review, which is in complete contravention of the spirit of the Act. They can go through the conciliation stage and make some attempt to conciliate and still maintain their rights; they do not have to concede anything. However, they cannot simply thumb their nose at it and not attempt it. This provision does no more than that.

Mr Brown: My understanding is that under the current arrangement people are being asked through the conciliation stage to waive their rights in relation to payments.

Mr KIERATH: I am not aware of that. If the member can give me details of something more specific I will have the matter investigated and I will provide him with information on that.

Ms MacTIERNAN: I have a concern about the amendment that has been moved because I do not think it goes to the heart of the problem and that we could do a little better. Everyone agrees with the Minister that it is inappropriate for people to be obstructionist at conciliation and use the fact of their obstruction to push the case past conciliation into review. Members agree on that basis. The Opposition's concern is that this provision has the potential to punish the party that is not guilty of the obstruction. The existing provision provides that a conciliation officer shall refer a dispute for review if any of the parties so request. To ensure a person cannot play around with this process, I propose to amend the Minister's amendment so the clause reads "unless of the opinion that any of the parties who have made the request has not made reasonable endeavours to have the dispute resolved through conciliation". That would achieve what the Minister wants to achieve; that is, preventing people who are being obstructionist in the conciliation process from being able to take advantage of their obstruction, but ensuring the innocent party in the conciliation was not disadvantaged by that conduct.

Mr KIERATH: I support in principle what the member for Armadale is trying to do. I am cautious about adding words on the run. I will seek advice between this place and the other place and, if necessary, have those words inserted. I do not have a problem with the proposed amendment, but I would like parliamentary counsel's view on it before agreeing with it.

Ms MacTIERNAN: No trickery is involved in this; it is pretty straightforward. A preferable approach would be to accept the amendment in this place and if there was a problem it could be deleted in the other place.

Mr KOBELKE: I support the proposed amendment. Further to our discussions outside this Committee, the Opposition wants to see this legislation passed. The Minister's advisers will probably support this amendment. If not, the Bill can be brought back to this place. The Opposition gives an undertaking that it will not use that opportunity to hold it up. If the Minister finds that the wording suggested by the member for Armadale runs into technical problems or raises matters we cannot see on the surface, that can be fixed in the other place and the Bill can be returned to this place and dealt with quickly. If we adopt the alternative of waiting for the matter to be fixed in the other place, we will be committed to bringing the Bill back here, therefore holding up the passage of a Bill that members wish to see passed in the minimum time. The Opposition was pleased the Minister indicated we could make amendments now and, therefore, have a Bill in its final form go to the other place. Notwithstanding that the Opposition has concerns about the legislation and has voted against some clauses, on the whole the Bill is positive and we do not want it to fall over because we see problems with some parts.

Mr KIERATH: I sought advice earlier. We have already dealt with clause 6. I want to amend that clause, and a mechanism is available by which I can do that. I will seek approval of the Chamber to reconsider the Committee stage of clauses 6 and 24, which will allow clause 24 to be amended.

Amendment, by leave, withdrawn.

Further consideration of the clause postponed, on motion by Mr Kierath (Minister for Labour Relations).

[Continued on page 8234.]

Clauses 25 to 31 put and passed.

Clause 32: Sections 93A and 93D amended and transitional provisions -

Mr KOBELKE: This clause will change the definition which is used from one of future pecuniary loss to future loss of earnings. This seems to be a fairly subtle change. However, the Opposition is concerned because it whittles away at the right of workers who gain the extra benefit of taking a case to common law. In order to meet the common law requirements they must show that the claim at least reaches the threshold of $104 800. That determination is currently made on the basis that there is a future pecuniary loss of at least $104 800. However, the definition of future loss of earnings is more restrictive. Given that we have salary packaging, the definition of future pecuniary loss can involve health and medical costs. This clause could mean that injured workers, most of whom do not get compensation which is full measure of the costs involved, will receive a lesser amount or will be excluded altogether from a case at common law because they fail to reach the threshold. I hope the Minister will give us some indication of the cost savings he anticipates from this change in definition. It may be that it is not a huge amount but for the individuals who are caught, it will be of considerable consequence. For example, if the amount they claim is decreased from $110 000 to $100 000, they will no longer be eligible to make a claim under common law, because they have not met the amount required under what will now become future loss of earnings. It is another small area where we feel the Minister is getting things totally out of balance. In his drive to cut costs he is denying fairness and equity to injured workers. From the cases I have come in contact with, injured workers who are making a claim of this sort have suffered a great deal. This change will raise the bar even higher and they will judge this to be totally unfair and unreasonable. The Opposition does not support this clause.

Mr KIERATH: This has created a great deal of uncertainty, and we are not in a position to determine the savings. The amendment that was made in 1993 related to an economic gateway for loss of earnings. The prescribed amount related only to earnings and not to other things and there is no logical justification to allow for additional allocations. When parliamentary counsel chose the words "future pecuniary loss" we assumed they reflected the Government's view. However, a court has determined that future pecuniary loss is wider than that, when every intention at the time was to the contrary. The loss was associated only with earnings and not any of those other matters. This is not to take away rights but to clear up an issue that a court has interpreted quite wrongly. Candidly we do not know how it could do that, when statements at the time were clear that it related to loss of earnings and nothing more. However, courts are independent. They have their views and this is trying to fix that up. All the parties associated with the commission have accepted that to be the case.

Mr KOBELKE: I will not go back over what I have said. I appreciate that under the Interpretation Act the meaning which the Minister hopes to give to the words in a Bill in debate in this Chamber can be taken into account, but only in so far as there may be ambiguity or uncertainty, otherwise we must accept the words as they are written in the amending legislation. I do not think the Minister's argument stacks up. It may have been the Minister's intent and he may have voiced that intent in the debate, but we want to stick with the words in the legislation. Although this debate is important to some aspects of the interpretation, the wording in the Act best represents a fair go for injured workers and the Opposition does not want to see it changed to another form of words which would clearly disadvantage some workers.

Clause put and passed.

Clauses 33 to 54 put and passed.

Clause 55: Schedule 5 amended -

Mr KOBELKE: Schedule 5 covers exceptions to the cessation of weekly payments by reason of age. The Minister is concerned that there is an element of double dipping. Subclause (1) brings in the potential for indexation, which the Opposition supports. However, subclause (2) strikes out the possibility of two claims under what is headed "Successive lung diseases to be regarded as one". I can understand from an administrative point of view that there is some equity in trying to rule out people being able to claim twice for what might be the same illness. However, the Minister's wording goes too far. Although I admit some sympathy for what the Minister is trying to do, his wording is not fair, because it goes much further than what is intended.

I refer to a letter to the Minister from Robert Vojakovic, President of the Asbestos Diseases Society, who has raised concerns about clause 55 and its amendment to schedule 5. In the letter Mr Vojakovic alludes to the intent of the legislation as established in 1981 and the difference between various medical conditions, whether they are separate or whether one is an advanced stage of the other illness. In addressing the medical area, he wrote -

> However, if the intent is to clarify the circumstances surrounding the occurrence of lung cancer where there is in existence a prior pneumoconiosis, so that in effect they are said to be one disease, then this proposed amendment goes too far and destroys numerous other potential claims, that were never intended to be affected.

He refers to a number of legal cases in which this medical determination has been tested in the courts. He also addressed in his letter the issue of how far the amendments go. He was speaking directly to the amendment before the Committee and wrote -

> However, the amendment is drafted far more broadly than to simply address the question of asbestosis and lung cancer. In its terms, it catches any form of pneumoconiosis together with any form of bronchogenic carcinoma or pleural or peritoneal mesothelioma. This is certainly not the intention of the 1981 Act, and there is no medical or logical justification for such an amendment.
>
> To take an example, consider a worker who works in a foundry, and contracts silicosis. The worker is entitled to be paid compensation accordingly. Some years before, the worker worked at Wittenoom and was exposed to blue asbestos. After the age of 65, the worker contracts mesothelioma. Under the amendment, although the work situations are totally unrelated, and although the diseases are as different as it is possible to be, one being a benign condition attacking the inside of the lungs, one being a fatal cancer that attacks the lining of the chest wall or the lining of the abdominal cavity, the worker has entitlements reduced, possibly obliterated, by the receipt of the compensation for the silicosis. The worker, possibly still with dependants, may be entitled to nothing. Was this the intention of the Act in 1981? Is it the intention of the Government now?
>
> Lest it be thought that this is an extreme example, there are currently a number of cases of workers with silicosis from working in gold mines in Kalgoorlie, who also worked at Wittenoom, and have now contracted mesothelioma. Having received the prescribed amount for their silicosis, these workers, will receive nothing for their mesothelioma. Frankly, this is an appalling notion that a dying worker's life is worth nothing.

Mr KIERATH: I am advised that if the worker referred to in the example given by the member for Nollamara developed mesothelioma, he could claim ordinarily under the Act but not through schedule 5. It is interesting that the member should raise the intention of the Act because I am also advised that schedule 5 was established to deal with workers over the age 65 years who at that stage did not have the choice of whether they would receive a little money over a lengthy period or redeem the amount. Obviously, if they had any of those three conditions, there would be some attraction in redeeming the amount rather than being paid over a lengthy period. The 1981 amendments were proposed by the Australian Workers' Union and were to deal with silicotic miners. They provided for a redemption only and were not intended to cover an amount for each disease. That was clearly acknowledged by all the parties at that time. I understand the person in the example given would be able to claim for mesothelioma but not under this provision.

Mr KOBELKE: I am in a very difficult situation. I understand the basis of this amendment. It is a complex matter to resolve a small number of genuine cases where there might be two claims. This amendment will preclude that, and I am not in a position to suggest a further amendment that will address the Government's requirements and deal with my concerns.

Mr Kierath: I have said the Government will amend the Act next year in relation to the rehabilitation review, so there will be other opportunities if the member wants to revisit the legislation. I am happy to get further advice and if the member can justify further amendments, I am more than happy to consider them.

Mr KOBELKE: I refer to another quote from Mr Vojakovic's letter which addresses, in part, the Minister's comments -

> Moreover, should the worker pursue a common law damages claim for the mesothelioma, under the provisions of Workers Compensation Act, the worker would have to repay to the previous employer's insurer, any amount received for a prior pneumoconiosis, even though the circumstances of the occurrence of the pneumoconiosis were in a completely different workplace and represent a completely different disease.
>
> Even if the situation were transposed to a worker with asbestosis and a subsequent lung cancer or mesothelioma, there is still no justification based on current medical understanding to regard the diseases as the same.
>
> However, this is especially so in the case of mesothelioma which is a dreadful, fast acting cancer, mainly due to asbestos exposure in the workplace which has no relation to any prior affliction.

The amendment is too pervasive and locks quite different medical conditions into a single claim. It is too difficult to deal with it now. I trust the Minister will look sympathetically at that area in the review, and I hope this does not disadvantage people in the twilight of their lives who are afflicted with terrible diseases because of their prior

employment. I hope some way can be found to allow two claims in the limited number of cases to which it applies, without that person being required to repay an earlier claim.

Mr BROWN: If this clause is likely to have any unintended consequences, such as that feared by the Asbestos Diseases Society -

Mr Kierath: We do not think it does. We do not believe it has those unintended consequences. People would still be able to claim for mesothelioma in the circumstances described by the member for Nollamara, but not under schedule 5.

Mr BROWN: Given the concerns raised and the substantial nature of this Bill, it seems the Government could, if it so determined, not pursue this provision at this time.

Mr Kierath: The point is that the commission itself and all the parties represented there agreed on this provision. The only person who does not is Robert Vojakovic. The Government is saying that his argument is flawed. We do not see any evidence that the provision will have unintended consequences or any severe consequences. I have already said I will arrange further briefings and the Act will be amended in connection with the rehabilitation review early next year. If any further changes are needed as a result of discussions - I invite the member to be involved - I will strongly consider them.

Mr BROWN: Given the resources at the Minister's disposal through the commission, I trust that is the case and there is not an inadvertent diminution of entitlements as a consequence of this change.

Clause put and passed.

Clauses 56 to 61 put and passed.

Schedule put and passed.

Title put and passed.

Bill reported, with amendments.

LOCAL GOVERNMENT (POLITICAL DONATIONS AND ELECTORAL EXPENDITURE) AMENDMENT BILL

Second Reading

DR GALLOP (Victoria Park - Leader of the Opposition) [4.32 pm]: I move -

> That the Bill be now read a second time.

The objectives of the Bill are to incorporate recommendation 142 of the Commission on Government requiring the disclosure of political donations received and electoral expenditure related to local government elections. This will provide greater accountability of local governments to their ratepayers and local residents, while reducing the potential for corruption or improper conduct.

Just as importantly, the Royal Commission into the City of Wanneroo clearly identified these issues as requiring reform. The lack of regulation and practices with regard to election donations was described by Commissioner Davis as "the greatest impediment by far to uncovering the existence of corruption within the City of Wanneroo".

It is worthwhile referring to Commissioner Davis' comments about election donations. He stated that -

> I am firmly of the view that the whole election donation procedure at local government level requires regulation. In my view it should be obvious to any person who reads the chapters of this report which concern allegations of corruption that the present situation is quite unacceptable. Without any regulation corrupt councillors with any "street sense" at all can engage in corrupt transactions without any real fear of retributive consequences. Regulation would no doubt not eliminate corruption but it would make its detection a great deal easier. That factor alone would be a great step forward for accountability and the perception of honest local government.

Two of the measures which the commissioner identified as going some way towards correcting this situation include: Firstly, that candidates and any persons acting on their behalf will be required to keep clear records of the date of donation, amount, full details of donor, where known, and copies of all relevant documentation; and, secondly, that there should be a publicly accessible and updated register of all donations made to councillors for electoral purposes. These two measures are incorporated into this Bill. I note that the other measures identified by the commissioner will need to be addressed by other mechanisms.

This Bill amends the Local Government Act by inserting provisions with regard to political donations and electorate expenditure. Candidates in local government elections will be required to disclose to the Electoral Commission within eight weeks of a local government election, donations from a single source that total $200 or more. The "disclosure period" for an election covers the period one year before and 30 days after polling day in the relevant election. Persons other than candidates, such as interest groups, who incur expenditure for political purposes during the disclosure period will also be required to furnish a return to the Electoral Commission. It will be unlawful for candidates to receive certain donations unless the name and address of the donor are known to the recipient, or there are no grounds to believe that the information given is not accurate.

Candidates will be required to furnish a return of electoral expenditure to the Electoral Commission within eight weeks of polling day. "Electoral expenditure" has the same definition as in the Electoral Act. A penalty not exceeding $1 500 can be imposed if a candidate fails to lodge a return, or lodges a false return. A continuing failure to lodge a return will be subject to a further penalty not exceeding $150. The Bill applies to this Bill certain of the enforcement and compliance provisions of part VI, division 5 of the Electoral Act, specifically those sections which relate to recovery of payments, investigations, inability to complete returns, and amendment of returns.

Commissioner Davis considered that it is necessary that any record of political donations to councillors should be publicly accessible. Clause 4.106 of the Bill provides that the public is entitled to peruse and take a copy of a candidate's return. This is an integral aspect of the transparency process.

In an important sense, the Bill complements the existing requirements in the Local Government Act. That Act requires councillors and designated employees to disclose, in primary and annual returns, their financial interests. Information that must be disclosed in these returns includes details about interests in real property, sources of income, details of trust, contributions to travel, interests and positions in corporations, debts, dispositions of property, and, most relevantly, gifts. The Local Government Act does not, however, make any provision for the disclosure of donations received, or expenditure made, on electoral campaigns by candidates. It was in this sense that the Commission on Government described the then proposed Local Government Act as providing only an "incomplete picture of a candidate's finances".

This Bill fills in the gaps identified by the Commission on Government and, more recently, the Royal Commission into the City of Wanneroo. It basically mirrors the requirements of candidates in state government elections, as required pursuant to the Electoral Act, although the specified amount for disclosure is lower, being $200 rather than $1 500. The direct nature of local government means that it is reasonable to have a lower threshold for the disclosure requirements.

It is worthwhile revisiting some of the situations discussed in the report of the Royal Commission into the City of Wanneroo that illustrate the need for this legislation. The commissioner noted that given the lack of requirements to properly document donations, publicly identify donors or account for expenditure, it was "virtually impossible in most cases to rebut the assertion that a payment made to a councillor was an election donation." However, the disguise was not always successful, as certain lines of inquiry in the report demonstrated.

One such example is the inquiry into the Woodvale Shopping Centre. The commission found that the developers, Rosinita Nominees Pty Ltd, entered into an arrangement with disgraced former Wanneroo mayor and councillor, Dr Wayne Bradshaw, whereby Dr Bradshaw would exercise his influence on the council to assist the company to obtain certain council approvals in exchange for a payment of $15 000. The money was paid to Dr Bradshaw through a "clandestine route". He was also found to have made electoral campaign payments to the Liberal Party, and to have failed to properly account for the full expenditure of the corrupt payment. To this day, we do not know which Liberals benefited from that corrupt payment.

The making of so-called donations in an unregulated manner gave rise to ambiguous situations. For example, one witness denied that a payment of $2 000 to Dr Bradshaw was corrupt or improper in any way. Rather, he made the payment because Dr Bradshaw was, in the words of the witness, "a pro-development type Councillor who was prepared to look at developments with an open mind and make judgments on their validity and value". The commission claimed that it had become "fairly familiar" with this type of refrain. In this case, there was insufficient evidence on which to base a finding that the payment was either corrupt or improper.

In my opinion these are clear examples of the difficulty in trying to assess whether a payment to a councillor was improper or otherwise. The commissioner, at page 1054 of the report, referred to the possibility that developers with an application before council would, if asked by a councillor, make a donation to the councillor's election campaign because of a fear of what might happen to the application if they refused to make any payment. There is also the alternative possibility that a councillor would look more favourably on an application from a donor because of the possibility of future donations. The commissioner went on to say that -

> In my opinion the decision as to whether the circumstances are proper for a councillor to request, and a developer to make, a donation should not be left to the discretion of the two parties involved. The temptation to rationalise is too great.

The mechanism set out in this Bill will not prevent corrupt or improper conduct, but it will work towards reducing the likelihood of such practices. It removes the "temptation to rationalise" as described by the commissioner. We should not underestimate the power of transparency in combatting corrupt conduct. Nor must we forget that local government plays an important and influential role in the lives of all Western Australians and it is vital that they have confidence in their third tier of government. I commend the Bill to the House.

Debate adjourned, on motion by Mr Omodei (Minister for Local Government).

MOTION - DISALLOWANCE

Mining Amendment Regulations (No 4)

MR GRILL (Eyre) [4.45 pm]: I move -

> That this House disallow the Mining Amendment Regulations (No 4) 1997, a copy of which was laid on the Table of the House on 14 October 1997.

This motion is about the gold royalty. If it is successful, these regulations will be disallowed and the gold royalty proposed by the Government will not come into operation.

I will not address the House at any length today because of the time constraints placed on it by other business. However, I am grateful to my colleagues for allowing me and the member for Kalgoorlie to move this motion. The Government's proposal is contained in regulation 86A of the regulations to which I have referred. From 1 July 1998 until 30 July 2000 there will be a royalty of 1.25 per cent on gold production, and from 1 July 2000, a gold royalty of 2.5 per cent will apply. There is one proviso to that situation; that is, if during the period from 2000 to 2005 the average gold price for any one quarter falls below $A450, for that quarter the gold tax will fall from 2.5 per cent to 1.25 per cent. That concession is made by the current Government under the proposed regulations.

There is no case for a gold tax at the present time and the Government has made a major error in proceeding with this measure in the current circumstances. It should rethink its position and desist from imposing this tax.

It is of the greatest irony that only yesterday the Federal Government finally realised the folly of its way in previously attacking the gold industry and announced that a round table summit would be conducted at a national level in an endeavour to bring together the major gold industry players and to put together a survival plan. I emphasise those words: "A survival plan". The Federal Government, which until recently has paid scant attention to the industry, has at long last realised that this industry is in a parlous state. It is one of this country's greatest industries and its second greatest resource exporter. It also produces this State's largest export item.

At last Senator Warwick Parer has acknowledged the problem, is prepared to convene this summit and, as far as I understand it, is prepared to chair it. Why has he done that? He has done so because the price of gold has not been lower for 13 years in nominal dollar terms. In those circumstances, it seems the most supreme irony that the Court Government should stubbornly and obdurately continue with this proposal in respect of what is even now a diminishing industry.

It has taken the Federal Government a long time to appreciate the cumulative effects of its policies in relation to the goldmining industry. In calling this summit, it wants to make some reparation for the arrogant stand adopted by the Treasurer about the sell off of two-thirds of Australia's gold stocks by the Reserve Bank. Mr Costello's attitude in respect of that matter was marked by blustering, insensitivity and arrogance that did him no good, and it certainly did the Federal Government no good. In an endeavour to make reparation for those past mistakes, the Federal Government has now embarked upon a survival plan for the industry. As I said, "a survival plan" is a dramatic term, but it is being used by the Federal Government in respect of an industry that is centred in this State - 75 per cent of the gold production of this country comes from Western Australia. It is a considerable tragedy - more than an irony - that this Government has not appreciated that this industry now has diminishing production, mines in operation and employers.

Although the Federal Government is putting in place a support plan for the gold industry, we find that this State Government is still proceeding with a plan to begin taxing it by 1 July of this coming year. As if the industry has not already had enough. It has been battered by a partial removal of the diesel rebate tax and by the fact that the new tax on the sale of mining tenements, which has been imposed by the Federal Government, affects the industry from the prospector right through to the major miner. The industry has been beset by a whole range of problems, as the Premier keeps telling us, in respect of native title. It has gone through the Reserve Bank sell off of two thirds of the

stocks held by the Reserve Bank. It is now affected by a disastrous price. There is also a threat of the national central banks selling off more gold. What is the State Government doing for this beleaguered industry? It would seem that it is prepared to do nothing apart from proceed with a tax which even the Government admits is retrogressive. It is a regressive, flat tax on production and not on profits. That is one of the major problems with it.

Mr Barnett: It is not regressive.

Mr GRILL: It certainly is.

Mr Barnett: Do you know what is a regressive tax? This is a tax but it is not regressive. It is neither regressive nor aggressive but proportional.

Mr GRILL: It will have regressive effects on the industry.

Mr Barnett: It is not a regressive tax.

Mr GRILL: In any event, it is a flat tax. The Minister and Premier know that a flat tax of this nature will ensure that mines will close, that other mines will be high graded and that other mines still will have a shorter life. That cannot be disputed. That will be the result of the tax the Government is bringing in. There would be less criticism of this tax if it were a profits based tax; however, it is not a profits based tax. It does not take into account profit in any respect whatsoever. This tax is based on production alone and is flat and across the board. This industry is already downsizing and closing certain of its operations and has already put into mothballs a number of proposals for future developments and plans. My colleague, Ms Megan Anwyl, will be talking about those matters in a few minutes.

The debate on the government side on this matter has been driven by government greed on the one hand and a blind adherence to free market philosophy on the other. We have seen commonsense and reasonableness thrown out of the window. Another important factor coming into play is that this Government is showing no compassion for those people who will be displaced as the industry downsizes or those people who will lose their homes and jobs as a result of sackings and downsizing which are already under way in the area I represent and in other areas further afield. We have present the two Ministers most concerned with this matter. It is time they joined with their federal colleagues and endeavoured to do something for the industry. There is a realisation and awakening at federal level. These Ministers appear to be out of step.

As was acknowledged last week, this tax will raise very little money in the forthcoming year. We could remove this tax on a bipartisan basis. The Government would receive nothing but glory and we would receive a little bit of reflected glory.

Mr Barnett: What a grotty little deal and what a basis for policy!

Mr GRILL: If commonsense and reasonableness amounts to a grotty little deal in the Minister's mind, it is more a reflection on him than on me.

Mr Barnett: It is your sophistication of the policy process that blows me away!

Mr GRILL: If we had a little bit of reflected glory as a result of a commonsense approach to this problem, and an approach which might just have a little compassion wrapped up in it, then we would all be better off. It is not a bad way of doing things in this place. I suggest to the Ministers that on a bipartisan basis, we agree that this tax be put on the backburner for the time being at least.

MS ANWYL (Kalgoorlie) [4.54 pm]: I make this appeal to the Premier and the Minister for Resources Development, as they are both present: If this regulation is not to be disallowed - and realistically I do not suppose that will happen - can at least some research be done on the effects of this royalty when added to the other factors that are currently causing grief to the gold mining industry? On the one hand, the Minister for Resources Development gives - there was that wonderful announcement today of $12m-odd worth of funding for a seniors college in Kalgoorlie-Boulder - and on the other hand takes away.

Although I must acknowledge the concessions that have been made to the imposition of the royalty, for which I, on behalf of the mining industry, my electorate and those who are employed within it, am grateful, adequate research does not appear to have been done into the negative economic impact that this tax will have on marginal operations, employment and the electorate of Kalgoorlie generally.

The gold price today is sitting at $US306 an ounce. It fell at the weekend to less than $US300 I believe for the first time in many years. Many operations are relying on forward sales but they are drying up. I was interested to read today a report in the *Kalgoorlie Miner* of research done by Surbiton Associates which shows that the cash cost of production of gold per ounce has decreased. Let us look at the human face of that cash cost reduction.

Mr Grill: It is a product of high grading.

Ms ANWYL: Yes, but it is also a product of a downturn in employment, which we are already seeing in these operations and which is a reflection of the fact that producers are already shedding jobs. It is also a reflection of the fact that less maintenance work is being carried out on plant and equipment generally. We are already seeing many of the major service industries reporting a downturn in work, which relates to employment. It is also a reflection of the fact that less costs are involved in associated industries, such as drilling contractors. There is a human face to that unemployment. I am sorry to say that mothers have already contacted my electorate office, asking me what I will do about their sons who are being laid off from newly found employment in the industry.

Failing a disallowance, I ask the Government to take some responsibility. I am sorry the Minister for Regional Development is not present because it is very clear that smaller gold mining towns will be hardest hit. Kalgoorlie-Boulder is already seeing some effect from the downturn in the industry. I will give a few examples. I have said in this House many times that the long term costs to the industry will be that new finds are not proved up. The exploration dollar is already drying up in some areas. WMC Resources put off 51 people last month. A number of exploration drilling rigs have been pulled from the ground they were traversing. There have been major announcements of operations that will not be proceeding. Sons of Gwalia Ltd has recently closed three mines. These are all very real examples of the crisis that has been caused not just by the royalty, as the member for Eyre and I concede readily. However, the royalty will be the straw that breaks the camel's back. There is no reason to impose it at this time. As we have said, there could not be a worse time to do it.

I draw the attention of the Premier and the Minister for Resources Development to the fact that the Federal Government has announced that two lots of research are to be commissioned. They relate to studies on expected demand for gold and barriers to exports. The Australian geological survey organisation will produce a report at the behest of the Federal Government to examine a greater emphasis on activities to assist the gold exploration industry. In that context I was disappointed to receive advice from the Association of Mining and Exploration Companies that its request that consideration be given to exploration credits had been rejected.

Clearly, exploration in the goldfields is already suffering a huge downturn because of a number of factors. I implore the Minister for Resources Development to further examine how to encourage exploration in my electorate and surrounding areas to continue at the level which has been enjoyed for the past few years. If the Government will not disallow these regulations, the very least it can do is commission some research into the negative economic impact that will be created by a royalty.

MR BARNETT (Cottesloe - Minister for Resources Development) [5.03 pm]: The Government does not support a motion to disallow a gold royalty for exactly the same reasons that have been debated on numerous occasions in this House. The Government agrees with the Opposition's view of the importance of the gold industry to this State. The gold industry is a great industry which produces approximately $3.5 billion worth of production. Unlike other parts of the resource industry it is characterised by a large number of producers, many of them medium scale mining companies, and it is dispersed across a wide geographic area of central Western Australia. Compared with other mining industries it is a big employer. All those points are readily acknowledged by the Government.

Mr Grill: They are largely locally based.

Mr BARNETT: In terms of the flow on effect to the community, the gold industry is a great contributor to this State.

The Government thought long and hard about the issue of a gold royalty. I do not intend to go through the issues again. It suits members opposite and the gold industry to talk about the royalty as a gold tax. The media will invariably report this debate, if it is worth reporting, as the gold tax debate. It is not a tax, and it is not a matter of semantics. A tax is a charge or levy for which no direct service is provided in return. A bus fare is not a tax; it is the price one pays for getting a ride on the bus.

The royalty is the price that the State - the people of Western Australia - charges an Australian or internationally based mining company to take that resource.

Mr Grill: It is the same thing as a resource tax. It is structured differently. It is simply semantics.

Mr BARNETT: It is the price for which the State sells the resource.

There is a royalty on all minerals mined in Western Australia. A royalty is charged on iron ore which has virtually no value in the ground. The Government even charges a royalty on salt which is gained by the evaporation of sea water. Surely the State should charge a royalty on gold which is a precious metal - a metal that is limited in its supply. It is a finite deposit and it is the property of the people of this State. The royalty is not excessive. Under the Mining Act the standard royalty for a goldmining operation would be 2.5 per cent.

The Government is conscious of not only the state of the goldmining industry, but also the importance of the industry to this State. It proposed a royalty because the State deserves to get something for the gold that is extracted by Australian and overseas companies. It will also create a sense of equality within the industry that all minerals attract a royalty.

It is a fact that other States, with the exception of Victoria, have royalties. It is also a fact that the major producing nations of the world, including South Africa, the United States and Russia, impose royalties on gold. Western Australia stands almost alone as the only major international gold producer that collects nothing in return for that finite resource.

Dr Gallop: It is called a competitive advantage.

Mr BARNETT: I know the Leader of the Opposition understands some of the issues. Members opposite who may not be persuaded by the argument that the people should receive something, but who care about environmental issues and resource management for the future should be acutely aware that it is a finite resource and the people of this State deserve a return from it.

The arguments can go on and on, but the point is that the Government, for sound, economic, social and development reasons, decided that the gold industry would be treated on a basis similar to other mining industries in this State by paying a royalty. However, the Government always looked at phasing it in and, given the effect on the market of the Reserve Bank's decision to sell off gold, Cabinet decided to further defer the implementation of the royalty. It has given the industry a full 12 months' notice of any change. Detailed discussions were held with the industry.

While the industry would prefer not to pay a royalty, the fact is that in discussions with the industry, at which the Premier, the Minister for Mines and I were present, it said that if there is to be a royalty the Government's proposal to implement it is the best way to go about it. They do not want a royalty, but they accept, through negotiation, that this is the best possible outcome. They played a constructive role in the proposal.

The member of Eyre rabbits on, but where is the international and social equity in American-based goldmining companies paying a royalty for gold they mine in America, but paying nothing for the gold they mine in Australia? The Labor Party once stood for fairness for people in this country. Now it is saying that the State should subsidise foreign companies -

Several members interjected.

Dr Gallop: Don't give us foreign rubbish.

Mr BARNETT: Now members opposite are intellectual giants.

Mr Grill: Are you concerned about the price of housing and people's jobs and their future? That is what we are concerned about.

Mr BARNETT: The impact of the Labor Party's proposal would be to provide a situation in which foreign companies, which make up about a third of the industry, would pay a royalty on gold mined in their country, but would not pay a royalty on the same product mined in Australia. If members opposite think that is in the interest of either the State or the nation, I am sorry because the Government and I disagree with them.

The Government is conscious of the potential impact of the royalty on the industry. The revised arrangement is that the royalty will come in at half the rate after 12 months' notice. The decision was made in June this year and the royalty of 1.25 per cent will apply from 1 June 1998. It amounts to approximately $A6 an ounce. It is a very small impost.

The price of gold in the current unstable market is bouncing up and down on a daily basis. Two years later the royalty will go to the full level of 2.5 per cent, subject to the price of gold being $A450. If the price does not recover - I believe it will; I certainly hope it does - the royalty stays at the very low 50 per cent concessional rate.

The full rate is only the Mining Act rate, which is not onerous in any case. Even then, it would be about $12 an ounce, compared with a total market price at the time of $450 - if it reaches that level. We took notice of small explorers, prospectors and the like who raised the issue of very small producers. The first 2 500 ounces of production for all producers is exempt from the royalty. In other words, a small goldminer can produce $1m worth of gold in one year before he pays one cent in royalties. We have looked at it. We understand the lack of confidence in the industry. This State Government has a great deal of confidence in the goldfields.

I acknowledge the support of the member for Kalgoorlie for school development in Kalgoorlie. The decision to construct a senior college in Kalgoorlie is a major boost. During the discussions the gold industry raised a point, with which I think the Premier will agree. It said that if the Government intended to put the gold royalty in place, although

the industry did not like it, it should be done in such a way that at least some of the revenue be put back into the goldfields.

One of a number of decisions that we will see come to fruition in the future is to raise substantially the level of secondary education by the provision of a senior college. This will make the Eastern Goldfields Senior High School one of the best schools in this State. It will be the best facility for years 11 and 12 education anywhere in Western Australia. That is putting a return directly back into the goldfields. It puts confidence into the growth of the area. There will be other things -

Mr Grill: Are you aware the price of nickel is down?

Mr BARNETT: I thank the member for giving me a lead-in to another topic. The price of gold historically has been up and down, and it probably will continue in the future. It is that type of commodity. Fortunately the goldfields are going through a period of rapid expansion in nickel. Currently under construction is the $200m Bulong project, the $200m Cawse project and the $1m Murrin Murrin project; and about another three or four projects may get under way. Despite the difficulty being experienced by the gold industry at the moment, the goldfields is going through a major expansion and diversification in nickel.

Policies cannot be run on the whim of the day. There are calls for extra research into the future of the industry. Of course we can pay half a million dollars and have a sophisticated research study, but what it would be trying to do is guess the price of gold in the future. I have tried to guess the price of gold for a long time. I get it right about one in four times. It is not an easy thing to do and there is little point in doing that.

We have brought in the absolute minimum royalty regime. It has been deferred and delayed; it provides concessions and it is tied to the price of gold. It is the minimum acceptable level of royalty regime for gold, far more generous than for any other mineral in Western Australia. The Government will not change its mind, and the gold industry does not expect it to. No-one has come to the Government and seriously asked that.

MR PENDAL (South Perth) [5.14 pm]: Earlier this year I gave notice that I would seek to disallow the regulations to the extent to which a gold royalty would be introduced in one fell swoop. I have had a number of representations from the mining sector which suggested that the principle of a gold royalty was one with which I had a lot of trouble. The argument that other sectors of the mining industry pay royalties has been canvassed by many people, both within and beyond this debate.

It was put to me, and I thought was a powerful argument, that the introduction of a royalty at that level in one fell swoop would be sufficient to cause difficulties within the gold mining sector, therefore I gave an undertaking at that time, publicly and privately, that I would seek to disallow the introduction of a mining royalty in one phase. There were several suggestions; for example, that it be phased in over a five year, a three year or a two year period. It seemed to me that it was sensible for a phase-in to occur.

This motion does not do that. I, for one, do not intend to support it. Effectively it says that there should not be a royalty on gold when another royalty exists for other minerals and metals in Western Australia. I believe this motion will be defeated. It is inevitable. At this late stage the Government should look at the phase-in that was canvassed widely by me and others earlier this year. It is still not too late to do that. The Government has its own difficulties, which have been exacerbated by the recent decision by the High Court of Australia, and which have been explained by successive Ministers in the past couple of weeks. Notwithstanding the Government's problems, I still think the industry should be accommodated to the extent that a phase-in should occur, at least over a three year or five year period.

We should not forget that this comes on the heels of what the federal Treasurer, Mr Costello, did. I do not have the details with me because I was not aware that this debate was coming on so quickly. We are all aware that some months ago Mr Costello sold off Australia's gold reserves. Regardless of his explanation, that put the cat among the pigeons, the Australian gold producers and, particularly, the bulk of the Western Australian gold producers because of the perception it created; that is, if we do not have confidence in our own product, why should we expect others around the world to have that confidence? Since then, we have seen the spectacle of other people selling off major portions of their gold reserves.

That is an inevitable result of what was then, and is now, a silly decision on the part of a Federal Government that believed it was somehow freeing up the market by a decision that had been ill considered. Coming as it does within that context, the introduction of a gold royalty in one stage is another blow the gold industry must accept. That remains a bad decision. Notwithstanding that I will vote against this motion, because there is every justification to have a gold royalty, the Government at this late stage should still be considering a gradual phase-in to give a break to an industry which has been battered for some time and needs time to adjust.

Question put and a division taken with the following result -

Ayes (17)

Ms Anwyl	Mr Kobelke	Mr Ripper
Mr Brown	Ms MacTiernan	Mrs Roberts
Mr Carpenter	Mr McGinty	Mr Thomas
Dr Gallop	Mr McGowan	Ms Warnock
Mr Graham	Ms McHale	Mr Cunningham *(Teller)*
Mr Grill	Mr Riebeling	

Noes (30)

Mr Baker	Mrs Hodson-Thomas	Mr Omodei
Mr Barnett	Mrs Holmes	Mrs Parker
Mr Barron-Sullivan	Mr House	Mr Pendal
Mr Board	Mr Johnson	Mr Prince
Mr Bradshaw	Mr Kierath	Mr Shave
Dr Constable	Mr MacLean	Mr Trenorden
Mr Court	Mr Marshall	Dr Turnbull
Mr Cowan	Mr Masters	Mrs van de Klashorst
Mr Day	Mr McNee	Mr Wiese
Dr Hames	Mr Minson	Mr Osborne *(Teller)*

Pairs

Dr Edwards	Mr Sweetman
Mr Marlborough	Mr Ainsworth

Question thus negatived.

MOTION - CENSURE

Member for Wanneroo - Donations

MR McGOWAN (Rockingham) [5.20 pm]: I move -

> That this House censures the member for Wanneroo for being party to a decision by the Girrawheen/Koondoola Recreation Association to donate $1 000 to the Vietnamese community in what the royal commissioner found to be " . . . in flagrant contravention of a council directive . . ." and for which Dr Bradshaw was found to have acted improperly.
>
> Further this House notes that the Royal Commission found the member's evidence to be ". . . inconsistent with the independent documentary evidence . . ." and that he was " . . . a most unsatisfactory witness who did not assist the Commission . . ."

This censure motion relates to two events. The first appears on page 716 of chapter 17 of the Royal Commission into the City of Wanneroo report. It refers to the Shelvock Reserve donation by Mr Colin Edwardes to Dr Nguyen Phat and reads -

> Mrs Edwardes, Mr MacLean and Mrs Garlick each said they were at Shelvock Reserve for varying periods of time on the afternoon of 20 April 1991. None of them saw Mr Edwardes pass anything to Dr Phat. Mr MacLean went so far as to suggest that because he was sufficiently close to Mr Edwardes throughout the entire occasion and did not see any money changing hands, it did not happen. I do not accept that proposition.

That is the first finding by the royal commissioner that the evidence of the member for Wanneroo was faulty. The second event in the royal commission report to which I refer, is in chapter 19. It refers to a $1 000 donation from the Girrawheen/Koondoola Recreation Committee to the Vietnamese Community Association which took place on 27 November 1990. It was a committee supervised by the City of Wanneroo. That committee had $6 000 or $7 000 in funds to spend a year. While the member for Wanneroo was a member of the committee it made a $1 000 donation to Dr Phat, the President of the Vietnamese Community Association.

The history is as follows: On 23 July 1990 Dr Phat wrote to Mr Bradshaw, the then Mayor of the City of Wanneroo, seeking a donation towards the Moon Festival. The City of Wanneroo moved for a donation of $100 from the city

to the association. Then the Girrawheen/Koondoola Recreation Association donated $1 000 to the Vietnamese community.

The DEPUTY SPEAKER: Order! There is a lot of noise in the Chamber. Would members please tone it down.

Mr McGOWAN: It was in excess of what the association was allowed to donate under the guidelines imposed on it by the Wanneroo City Council. In order to best set out the actions of the member for Wanneroo I quote from page 739 of the royal commission report. It reads -

> Mr Iain McLean MLA was quite sure the donation was made to help finance a conference for the Vietnamese Caodaist Association of Western Australia. When it was pointed out to him that the request for a donation for that conference was not made until August 1991 in a letter addressed to him Mr McLean offered two explanations. He said first, that the date of the minutes of the meeting could be wrong and secondly, that he could have told Dr Phat around August 1991 that if he wanted his money he would need to write a letter. When it was first pointed out to Mr McLean that payment had been made in November 1990 and the money received in February 1991, he agreed those explanations could not apply. Mr McLean had no other explanation for why the Association had donated $1,000.00 to the Vietnamese Community, but professed some indignation at the fact that the Commission was inquiring into the matter. He said he was annoyed about the questions he was asked. Mr McLean did not know what the payment was for but said he knew there was no corrupt payment and thought it was "abominable that you should even suggest it of an association made up of volunteers who put in a lot of time . . .". He said he regarded the $200.00 limit imposed by the Council as no more than a guideline and expressed surprise that the letter advising of the Council's concern at the $1,000.00 donation had survived since "we threw most of them in the bin". In general Mr McLean was a most unsatisfactory witness who did not assist the Commission.

That is the second finding that the member for Wanneroo was an unsatisfactory witness who did not assist the Royal Commission into the City of Wanneroo. *The West Australian* referred to comments by counsel assisting the royal commissioner about the member's conduct before the Wanneroo royal commission. The first is on 26 February 1997 and reads -

> At one point, Commissioner Roger Davis QC told Mr MacLean - a former Wanneroo councillor and friend of former mayor Wayne Bradshaw - to keep his comments to himself.
>
> Mr Davis said he would not allow Mr McLean to use the commission to make political statements.

That was an example of the member for Wanneroo being put in his box by the royal commissioner. The second time comments were made about the member for Wanneroo's conduct at the royal commission was on 5 March in *The West Australian* where counsel assisting, Mr Robert Nash, was reported as saying -

> In my submission, Mr MacLean displayed an antagonistic attitude towards questions he was asked which seemed based on some misguided belief that the Girrawheen-Koondoola Recreation Association . . . should not be subjected to scrutiny or investigation by this commission.

A member of this House has been adversely commented on by a duly constituted royal commission of this Parliament. The commission has indicated there were some improper monetary dealings by Mr Wayne Bradshaw which were under the auspices of the City of Wanneroo and that the member for Wanneroo was a party to them inasmuch as he was a member of the association which made the donation. The finding by the royal commission was that the donation was a flagrant breach of the guidelines of the association, and that Dr Bradshaw had abused his position. The member for Wanneroo was a close colleague of Dr Bradshaw; he was an integral part of the donation which the royal commission found was a flagrant breach.

The Royal Commission into the City of Wanneroo report was handed down last Tuesday and debated in this place last Wednesday. During the past week, the member for Wanneroo has had ample opportunity to explain himself and to defend the findings of the royal commission. The findings are very serious. When one is elected to Parliament one has a responsibility to the people of Western Australia. The member for Wanneroo represents 30 000 people in one of the fastest growing areas of the State. Those 30 000 people need someone with integrity who can represent them in this place, command some sort of respect, and possess some sort of ability. Since the handing down of that royal commission report, only two statements have been made by the member in that regard. Last Wednesday, during his contribution to debate on the report, the Leader of the Opposition asked why the member for Wanneroo was not in the Chamber; he queried whether the member would make a comment on the report. A short time later the member for Wanneroo appeared in the Chamber in a bit of a rush. His first statement on the royal commission report which found his conduct to be wanting, his first submission to the House was, "Hey, boofhead! I'm here!" His second contribution was a personal explanation on 13 November. I will be kind to the member and quote from *Hansard* rather than from *The West Australian*. He said -

> During question time, a question was asked which concerned me. I want to make it very clear to the House that I was not directed not to speak in yesterday's debate or to leave the House. If members opposite have not worked out by now that I have a short temper, there is more than one boofhead on the opposition benches.

That was the statement that the member made in regard to these serious allegations!

Mr Court: What action do you think should be taken against the member for Wanneroo?

Mr McGOWAN: Firstly, the Premier should take action. He should give the member a stern warning about his conduct. Secondly, this House should censure the member. Thirdly, the member should make a satisfactory explanation - not a glib statement like he made last week on two occasions - to the House about the reason the royal commission said he was an unsatisfactory witness, and he should explain his conduct in relation to the $1 000 donation and the Shelvock Reserve affair.

MR COURT (Nedlands - Premier) [5.33 pm]: Moving a censure motion against a member of Parliament is a very serious action. The censure motion has been moved against a member of Parliament because, we have been told, seven years ago a recreation association made a grant to the Vietnamese community at a time when the member for Wanneroo was not a member of Parliament. He was a volunteer member of a committee which numbered 15. He was not a member of the executive of that committee. No finding was made against Mr MacLean in relation to the $1 000 donation to the Vietnamese community. On that matter, a motion was moved by Mr Mike Gilmore of the Girrawheen/Koondoola Recreation Association - a group of people helping other community organisations in the area.

The royal commission said that the City of Wanneroo Council passed a resolution on 19 December to advise the Girrawheen/Koondoola Recreation Association that it had contravened the recreation department policy on financial grants to community groups. The royal commissioner found that Dr Bradshaw had abused his position as a councillor and had acted improperly by arranging for the $1 000 donation from the Girrawheen/Koondoola Recreation Association. Nothing in the findings faintly suggests that Mr MacLean had acted improperly.

Dr Gallop: You just do not accept this report!

Mr COURT: We are talking about a $1 000 donation from a recreation association to another community organisation - and the member for Wanneroo was not even a member of the executive of that organisation.

Several members interjected.

Mr COURT: I am making this speech! I have asked members opposite what they think should happen. The finding of another royal commission was that some members opposite were guilty of improper conduct.

Dr Gallop: They resigned from their positions the day that report was handed down.

Mr COURT: Some of them are still sitting on the front bench opposite.

Several members interjected.

Mr COURT: That was a very nervous laugh.

Dr Gallop: It was not. The member for Cockburn and the member for Armadale resigned. I was here at the time.

Mr COURT: This royal commission made no finding in relation to the member for Wanneroo making a $1 000 donation. A finding was made in regard to Dr Bradshaw that he had used his influence in a committee.

Several members interjected.

Mr COURT: I will make this speech. What about the other 15 members of that committee? Were any Labor people involved in the committee?

Mr Ripper: Were they criticised for their behaviour during the proceedings of the commission?

Mr COURT: No comment was made regarding Mr MacLean making a donation of $1 000.

Mr McGowan: Will you allow the member for Wanneroo to speak today?

Mr COURT: Of course.

Mr McGowan: Will he be up next?

Mr COURT: Does the member want to be told about our speaking order?

Dr Gallop: It is important.

Mr COURT: Members opposite want to know about our speaking order, but they could not even move a disallowance motion on the gold royalty. I have never seen a more incompetent Opposition during private members' time.

Several members interjected.

Mr COURT: The Opposition is attempting to censure the member for Wanneroo who was not even a member of the executive of that recreational committee. That committee made a grant to another organisation. The royal commission has set out its findings in regard to that deal.

Several members interjected.

Mr COURT: The Opposition has moved a censure motion, at the same time as another member opposite is prepared to use his position to publicly attack bureaucrats in the Ministry of Fair Trading who are trying to do their jobs.

Several members interjected.

Mr COURT: The censure motion has been moved against a member who was a volunteer - one of 15 on a committee - and the Opposition thinks that is a worthwhile action, even though the royal commission did not raise the matter in relation to the member in question. It makes that comment in relation to Dr Bradshaw, but not the member. As we are talking about the behaviour of a member of Parliament, I place on record two recommendations: The first is from the Royal Commission into Commercial Activities of Government and Other Matters -

> One of the axioms of our system of Government is that public officials should subordinate to the interests of the public their own personal interests and those of their associates. Few things are more subversive of public confidence in government than the appearance that officials might not be doing so.

Second, the Royal Commission into the Use of Executive Power found -

> Members of Parliament as elected representatives have an obligation to the people not to act in their personal interests at the expense of interests of the public.

We have a situation in which an opposition member, who should be aware of a conflict of interest, and the ethical requirement to disclose that conflict of interest, has not disclosed that interest. However, members opposite walk into Parliament with a censure motion relating to a grant of $1 000 to the community.

Several members interjected.

The DEPUTY SPEAKER: Order! This is a very serious debate. A member is being censured and it will be a spirited debate. I ask that members come to order when I call for order, and I do not want screams to continue. I would like a little order.

Mr COURT: It demeans the censure motion process when one is moved purely because, we are now told, members opposite want the member for Wanneroo to speak. The member can speak and perhaps he can tell us a little about what this recreation organisation does. He might tell us what 15 volunteers on a committee do. He was not even a member of the executive of that group. Later, I believe, he became a member of the executive of the recreation organisation, but he was not when the matter in question took place. Nevertheless, the Opposition has moved to censure the member in Parliament. I cannot believe that members opposite have gone to this extent simply because they want him to speak!

MR JOHNSON (Hillarys) [5.43 pm]: This is a very serious motion before the House -

Mrs Roberts: You will defend him, will you?

Mr JOHNSON: I did not interrupt the opposition member when he spoke, and I would appreciate the same courtesy. This very serious motion has two parts, and I will deal with the second part first. The Opposition is clutching at straws in this classic case of double standards.

When a previous Labor Party member went before a royal commission, he refused to give evidence, which is far worse than giving evidence. I refer to David Smith, who blatantly refused to give evidence despite the direction of the royal commission.

Several members interjected.

Mr JOHNSON: The Opposition has just said that the Premier should take disciplinary action against the member for Wanneroo. However, what did the Leader of the Opposition do when David Smith refused to give evidence?

His blatant refusal to give evidence struck at the foundation of the administration of justice in this State and was evidence of a flagrant disregard for the rule of law. Also, it was contrary to his oath of office as a parliamentarian.

The criticism of the member for Wanneroo by Royal Commissioner Davis pales into insignificance when compared with the actions of David Smith, which were tacitly condoned by the Leader of the Opposition because he did not say a word.

Ms MacTiernan: It was a matter of principle.

Mr JOHNSON: And that makes it okay, does it? David Smith was also an officer of the Supreme Court at the time. At least the member for Wanneroo had the courage and enough respect for the rule of law to give evidence on oath in the royal commission. We are seeing a double standard, as usual - here we go again! Members opposite come into Parliament trying to denigrate one of our members, but they will not get away with it.

I now deal with the first part - the main part - of the censure motion. This refers to the actions which members opposite say the member for Wanneroo took seven years ago as a member of a recreational association. What did that association do?

Dr Gallop: Mr Davis said it mattered that it happened seven years ago.

Mr JOHNSON: The commissioner said that the association did not adhere to the guidelines, or the policy, of the Wanneroo City Council. I can remember quite a few of the policies of the City of Wanneroo, one of which was that there was a $200 limit on amounts which recreational associations could provide to other associations in the area. The City of Wanneroo very often did not even adhere to its own policy. I can give members a few examples: Some young sportspersons involved in an association and living in the City of Wanneroo represented this State at sporting functions internationally and interstate. The City of Wanneroo had a policy of donating only a certain amount of money to such groups, irrespective of whether the group comprised two or 20 people. That policy would often be broken and the city would give that group whatever it felt was appropriate as it involved young Wanneroo people. I had no problem with that.

I will be brief as I do not want to hold up my colleague the member for Wanneroo.

Mr Ripper: You want to keep him back for five minutes.

Mr JOHNSON: If the member does not interrupt, I will finish quickly.

I refer to a specific case: In my first year on the Wanneroo City Council, council land came up for sale which a community member wanted to buy. The person who supported the sale of that land was a friend of the member for Peel - it was Arnold Dammers. I took the principle that council land belonged to the people of Wanneroo and that the council had a responsibility to ensure that it obtained the best possible return for any council land. When the land came up for sale, I said that we should lease it to people for a market garden as it should not be sold at rural values. The land was adjacent to the townsite of Wanneroo, and the land had enhanced development potential. Therefore, I said that we should have a policy -

Mr Marlborough interjected.

Mr JOHNSON: The member does not want to hear about this because one of his mates opposed my suggestion; it was the member's mate who ran to him every five minutes with rumour and innuendo, which he then brought into this place.

The policy I proposed, and which was finally adopted, was that any council land sold should have a caveat placed on the title deed for 25 years. Therefore, if the land was sold at an enhanced value down the track, the people of Wanneroo would receive a financial benefit. It was a good idea; members opposite would not disagree. Nevertheless, Councillor Dammers and others fought tooth and nail not to adopt that as council policy.

Mr Marlborough: What has that to do with the royal commission report?

Mr JOHNSON: I am talking about council policy and guidelines - the member should try to listen.

We adhered to that policy for the two years that I was on council. The moment I left that council, when the person to whom I referred earlier wanted to buy some extra stretches of land, council ignored that policy and sold the land to the person who bought the land previously. Therefore, no caveat was placed on the title deeds: If it is redeveloped for urban purposes down the track - which is certain as it is next to the townsite - the people of Wanneroo will receive nothing.

Ms MacTiernan: Was he on the council when you left?

Mr JOHNSON: No, he was not. He may have come on afterwards, but he was not there when I was a member.

Ms MacTiernan interjected.

Mr JOHNSON: No. Arnold Dammers, the friend of the member for Peel, pushed that we not adhere to the policy. It is true - look at the council records.

Several members interjected.

The DEPUTY SPEAKER: Order! If the member directs his comments through the Chair, he will invite fewer interjections.

Mr JOHNSON: The first part of the motion is so spurious that it will not stand up; it is a nonsense and will be thrown out.

MR MacLEAN (Wanneroo) [5.50 pm]: I want to make it clear that the Royal Commission into the City of Wanneroo did not find anything improper in the way I acted. That is the basis of this. I will read a comment on the royal commission from the *Wanneroo Times* on 4 March. Counsel assisting, Robert Nash, asked me in the royal commission whether I was feeling comfortable answering questions. The article states -

> Mr MacLean denied feeling threatened by questions from counsel assisting Robert Nash relating to the $1000 donation made by the Girrawheen-Koondoola Recreation Association to the Vietnamese Community of WA in February 1991, but said they annoyed him.

They did. To quote further -

> He believed attacks by the royal commission on voluntary associations resulted in no-one wanting to join them.
>
> This affected the public.
>
> "You're hunting around to see if the $1000 paid to the Vietnamese community is in some way a corrupt payment to get votes out of them.
>
> "Knowing the Vietnamese community in 1990-91, it was absolutely a useless exercise if it took place.

I have no qualms about supporting a recreation association of which I have been a member for over 10 years and of which I am a life member. I am surprised that people who purport to be grassroots people would attack someone in such a way as they are attacking me today for being supportive of a recreation association. So that members opposite understand why I was so supportive of this association, I will run through some of the things this association did to benefit the community. Perhaps by the end of my time those opposite will understand why I defended that recreation association and why I will continue to defend that association against any attack by any person.

One of the great successes of the Girrawheen-Koondoola Recreation Association is the free community breakfast we stage every Australia Day. The breakfasts were started in 1988 as part of the 200 year celebrations and they have continued ever since.

Mr Ripper: Do you accept the findings of the royal commission?

Mr Shave: Let him talk.

Mr Ripper: Why can't he speak for himself? Why do you have to do his talking?

Mr Shave: You let him talk.

The DEPUTY SPEAKER: Order!

Point of Order

Mr MINSON: It is now coming up to my tenth year in this place. In that time personal explanations -

Mr Ripper: It is not a personal explanation. You have it wrong.

The DEPUTY SPEAKER: Order! The member for Belmont should not interrupt while a member is making a point of order.

Mr MINSON: The member for Belmont should hold on. The person being attacked in a censure motion is usually heard in silence. That was the case when I came here. Over the years, particularly in the past four or five years, we have departed from that practice to the point that sometimes members cannot hear the person who is delivering a

speech. Mr Deputy Speaker, I ask that you rule that this person be heard in silence. That is only fair and reasonable. The people of Western Australia are upset about the way members in this House have behaved over the past few years. I ask you, Mr Deputy Speaker, to rule that standing orders be upheld on this occasion.

The DEPUTY SPEAKER: Order! I do not think there is any reference in standing orders to members keeping silent when a member is speaking in the Chamber. Out of courtesy that sometimes applies. There is no point of order. I ask that the member be allowed to give an explanation of reasons for the censure motion. It is serious; let us listen to him.

Debate Resumed

Mr MacLEAN: I remember well the second year we staged the breakfast because that is the year the council refused to give us any assistance. My wife and I, who were the organisers of the function, were sitting on our back steps three days before the function wondering from where we woulds get the $500 or so we were short. The recreation association staged that breakfast, and has done so yearly ever since. We attract about 2 000 local people, as the local member of Parliament is aware because he has claimed responsibility on numerous occasions.

Some of the other involvement of the Girrawheen-Koondoola Recreation Association is a little closer to the Opposition's heart. I bring to the attention of the House the Koondoola open space area. That area of bushland in the northern suburbs is equivalent in size to Kings Park. It consists mostly of banksia woodland and tuart. It also has a unique wetland area. Members opposite during their term in government appreciated the bushland because they wanted to turn it into a housing area. The Girrawheen-Koondoola Recreation Association lobbied heavily against this and we organised a number of public meetings in opposition to the then Government. The council at that time succumbed to our lobbying and it passed a resolution that it would never approve any planning for the land. The land was subsequently earmarked as an A class reserve and it is now called Koondoola open bushland. That was a major achievement of the recreation association. I am proud to be involved with it.

Members opposite wonder why I would defend a group of people who put in so much time and effort to better their local community. The Australia Day breakfast and the Koondoola open space are not the only things the recreation association has done; it instigated a series of book awards. The first year the Girrawheen-Koondoola Recreation Association instigated the book awards we had a stand-up row with the staff of the City of Wanneroo over who should present them. It is interesting that one of the things on which the royal commission reported was that we did not take a lot of notice of the Wanneroo City Council. One must consider that we were presenting book awards and the council was trying to stop us from doing it; we were having Australia Day breakfasts and the council did not want to be involved, but it is now.

We also lobbied heavily and fought hard to have a scouts and guides hall established in Girrawheen.

Mr Ripper interjected.

Mr Shave interjected.

The DEPUTY SPEAKER: Order! The member for Wanneroo is not speaking in a loud voice. Hansard would be having an extraordinarily difficult job hearing. When members become involved in a cross-Chamber exchange, it is impossible to hear the member. Let us bear that in mind.

Mr MacLEAN: The royal commission pointed out that we had a tendency to ignore letters from the council saying that we overspent our authorised allocation. During the inquiry, the royal commission handed me a list of cheques that were written in February 1991 or 1992. One was a cheque for $1 000 to the Vietnamese community; another was a cheque for $1 500 for a local group. That is why I express some surprise that the letter for the Vietnamese donation survived. The association also received letters on regular occasions because it donated to local people who represented the State, both internationally and nationally. Often because of the low socioeconomic area we would donate substantial amounts of money in relative terms to people who represented the State because their parents or guardians could not afford to send them to competitions. I am proud of the fact that this association supported the local community. I am very proud to have been a member, and to be a member, of that community organisation, because we supported the local community. Members opposite can come in here and make every accusation they like.

Mr McGinty: It was the royal commission, not us.

Mr MacLEAN: Members opposite can make accusations against me and about my background, but I am proud of it. I do not recant anything I have said. I defended not only the recreation association but also the real people in that organisation. Those real people were under pressure. Members opposite have highlighted the fact that I have gone on from the recreation association and become a member of Parliament, and I should accept more responsibility. Perhaps I should be a little more conciliatory when people I know are attacked. Maybe I should be more forgiving

when people attack associations of which I have been a member for years. Maybe I should be a little bit more conciliatory rather than being so willing to defend those people. I am not, and I will not be. Anyone who attacks a friend of mine will cop it.

MR McGOWAN (Rockingham) [6.01 pm]: This debate has shown one important thing: The standards of this Premier are very low. The royal commission report brought down two findings of unsatisfactory conduct by the member for Wanneroo and this Premier defends him to the hilt. That shows that neither the member for Wanneroo nor the Premier is up to the job.

Question put and a division taken with the following result -

Ayes (20)

Ms Anwyl	Mr Kobelke	Mr Riebeling
Mr Brown	Ms MacTiernan	Mr Ripper
Mr Carpenter	Mr Marlborough	Mrs Roberts
Dr Constable	Mr McGinty	Mr Thomas
Dr Gallop	Mr McGowan	Ms Warnock
Mr Graham	Ms McHale	Mr Cunningham *(Teller)*
Mr Grill	Mr Pendal	

Noes (28)

Mr Baker	Mrs Holmes	Mr Omodei
Mr Barnett	Mr House	Mrs Parker
Mr Barron-Sullivan	Mr Johnson	Mr Shave
Mr Board	Mr Kierath	Mr Sweetman
Mr Bradshaw	Mr MacLean	Mr Trenorden
Mr Court	Mr Marshall	Dr Turnbull
Mr Cowan	Mr Masters	Mrs van de Klashorst
Mr Day	Mr McNee	Mr Wiese
Dr Hames	Mr Minson	Mr Osborne *(Teller)*
Mrs Hodson-Thomas		

Pair

Dr Edwards	Mr Nicholls

Question thus negatived.

Sitting suspended from 6.05 to 7.30 pm

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Recommittal

On motion by Mr Kierath (Minister for Labour Relations), resolved -

That the Bill be recommitted for the further consideration of clauses 6 and 24.

Committee

The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Kierath (Minister for Labour Relations) in charge of the Bill.

Clause 6: Section 10A repealed and a section substituted -

Mr KIERATH: I move -

Page 5, line 16 - To insert after "company" the following -

in any share of which the person has a beneficial interest

This amendment is as a result of a suggestion by the Opposition to tighten up on these provisions to ensure there are no sham operations.

Ms MacTIERNAN: I appreciate the Minister's cooperation in this regard. I point to the changed composition of the upper House as having a salutary effect on good legislation in this place. The Minister will be aware that in 1995 and 1996 I made similar recommendations without any success. The changed position of the upper House has

encouraged the Minister to be flexible and we appreciate that fact. This will go some way to dealing with the concerns of the Opposition about the effect of this exemption for working directors. It will stop some of the most blatant abuses. Nevertheless, it does not address the broader issue of a transfer of cost to society generally that will occur from appointing as company directors workers who are fundamentally subcontractors for the performance of labour in areas like the building industry and who, if they are injured, will not be covered for workers' compensation. That will be an increased burden on the public health dollar and the social security system.

Mr KOBELKE: The Opposition was concerned that the clause as put to the Chamber provided an opportunity for an artificial device by which workers could be registered as company directors and therefore avoid the liability to take out workers' compensation insurance. The Minister's amendment will fix that, and for that I thank him.

The bigger issue of the shift towards subcontracting and moving the liability for workers' compensation back onto the individual will not go away. The Opposition does not have the numbers or the opportunity in this legislation to address that issue, but it is a large and growing problem and we will look to the problems that may arise with the Workers' Compensation and Rehabilitation Act with respect to the shift of liability onto the workmen who are performing the duty.

The whole thrust of the Act is to ensure that people are covered by workers' compensation insurance. The move towards workers operating as company directors allows them to escape that liability. As the member for Armadale indicated, that will mean a shift of the cost onto the public purse through Medicare, public hospitals and other means, and also a much greater liability on individuals who will not be insured. With respect to the degree the Minister has been willing to take up our particular concern about people operating sham companies in order to avoid the Act, the amendment moved by the Minister will at least close off that potential abuse of the Act.

Amendment put and passed.

Clause, as amended, put and passed

Clause 24: Section 84Y amended -

Mr KIERATH: I move -

> Page 16, lines 22 to 24 - To delete the lines and substitute the following -
>
> > unless of the opinion that the party making the request has not made reasonable endeavours to have the dispute resolved through conciliation.

During the break the wording drafted by the member for Armadale was checked with parliamentary counsel who made a slight amendment, and the Government is prepared to accept her amendment on that basis.

Mr KOBELKE: I again thank the Minister for this amendment. There is no need to go into the arguments for why we thought this necessary as it was covered in the debate.

Amendment put and passed.

Clause, as amended, put and passed.

Report

Bill again reported, with further amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Kierath (Minister for Labour Relations), and transmitted to the Council.

SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL

Council's Amendments - Committee

Amendments made by the Council now considered.

The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Cowan (Minister for Small Business) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

> Clause 6, page 4, lines 20 to 28 - To delete the section and substitute the following section -

11B. (1) The Minister may issue a directive to the Corporation and the Corporation is to give effect to the directive. A directive is to be in writing signed by the Minister.

(2) A directive must relate to Corporation policy or the discharge of its functions and is incapable of -

(a) authorizing anything unlawful;

(b) suspending the application to the Corporation of any written law;

(c) enabling the Corporation to do that which it may resolve to do of its own motion without the directive;

(d) conferring additional functions on, or rescinding existing functions possessed by the Corporation.

(3) The Corporation shall consider the directive within 14 days of its receipt and if it forms the opinion that the directive is outside power or otherwise unlawful, it shall notify the Minister of that opinion and the reasons supporting it and, unless the Corporation is required by the Minister's written notice that the directive is to be given effect, the directive lapses.

(4) Adherence to the Minister's notice given under subsection (3) does not cure any illegality or defect inherent in the directive or acts done by the Corporation in giving effect to the directive, but no action lies against the Corporation for anything done in conforming with the directive.

(5) A directive, the Corporation's notification to the Minister under subsection (3), and the Minister's notice insisting on adherence to the directive, shall be laid before each House of Parliament within 7 days of the making of the last such instrument.

(6) The instruments described in subsection (5) are to be published in the annual report of the Corporation.

No 2

Clause 8, page 6, after line 14 - To insert the following new subparagraph -

(c) where the disclosure of information is in the public interest and details corrupt, illegal or improper conduct;

Mr COWAN: I move -

That amendment No 1 made by the Council be not agreed to.

I have two reasons for not agreeing to this amendment. In the first instance, proposed new section 11B, the subject of this amendment, has been consistently applied to legislation since 1990. It is a standard clause inserted in legislation as a consequence of the report of the Burt Commission on Accountability. It is inappropriate that the Small Business Development Corporation Act should be the subject of a variation to standard procedure with regard to ministerial directives to the boards of statutory authorities and government agencies. As most people know, in accordance with the recommendation of the Burt Commission on Accountability, it is a requirement that any ministerial direction given to a board must be in writing and reported in the annual report of that statutory authority or government agency.

In addition, other sections associated with that proposal are an attempt to impose additional requirements upon the board members of the Small Business Development Corporation. I suggest that members in the other place should be much more aware of the law that prevails in this State because already the Statutory Corporations (Liability of Directors) Act states that a Minister may not give an unlawful directive. On that basis, this amendment is quite unnecessary. For that reason I seek the approval of the Committee to not agree to amendment No 1.

Mr BROWN: The Minister for Small Business has made some salient points in support of his motion not to agree to amendment No 1. The Minister objects to the proposed new section on two bases. The first basis is that this proposed section is a standard section that has been included in other pieces of legislation. If I were wearing my hat about standard sections, I would agree with the Minister, because, as a person who likes standard sections and who used to put them into lots of awards and agreements, I have some understanding of their importance.

However, I have been told in more recent times that standard sections are not appropriate because we need to have flexibility and enterprise bargaining and, more importantly, individual bargaining. Therefore, if I were wearing my

hat of some years ago, I would hold hands with the Minister and agree with him that in these days of greater enlightenment - if that is the case, and I am not sure that it is - there is a need for greater flexibility.

Leaving that argument to one side, this amendment endeavours to incorporate in this legislation a section that is included in other legislation. I am not sure whether that satisfies the drafting guidelines that parliamentary counsel would recommend to government, nor whether some legal maxim is applied to how the courts shall interpret a section that is contained in two Acts of Parliament. I am not a legal practitioner and I do not know the degree to which courts may be confused or the degree of difficulty that may place upon boards or tribunals in dealing with these matters.

The upper House has attempted to include in this Bill what people would regard as appropriate provisions. In opposing proposed subsection (2) of the amendment the Deputy Premier is not suggesting that a directive could be issued that authorised anything unlawful or that suspended the application to the corporation of any written law. It is rather a matter of the Deputy Premier saying that this is the law currently and it does not need to be replicated in this legislation.

Mr COWAN: The member for Bassendean is right. As I said, the Statutory Corporations (Liability of Directors) Act precludes any Minister from giving a directive to board members that authorises anything unlawful. In other words, I cannot give the board a directive that contradicts the law under which it must operate- that is, the Small Business Development Corporation Act. Therefore, proposed subsection (2) is superfluous because one Act already provides that I cannot give such a directive, and we do not need to repeat that.

Mr BROWN: It may come down to the question of whether it is worth asking parliamentary counsel to see whether, either in this Act or as a matter of form, it is prudent to modify the standard section so that these things are spelt out not only in this Act but in other Acts. There was some argument in this place about people being given the opportunity to read in one document all of the obligations which are imposed upon them. I am not suggesting that we should include the Companies Code in every Act of Parliament that set up a board and imposed upon its members the requirements that are imposed upon directors of companies, because those Acts of Parliament would run for hundreds of pages. Nevertheless, there may be some merit in asking parliamentary counsel to review this matter.

Mr Cowan: I can ask it to do that, but I do not want to do it in this Bill.

Mr BROWN: I can understand that. The Minister has indicated his preparedness to do that, and that may go some way towards allaying the concerns that were raised in the other place.

Question put and passed; the Council's amendment not agreed to.

Mr COWAN: I move -

> That amendment No 2 made by the Council be not agreed to.

It appears that the enthusiasm of the members of the minor parties in another place, and equally the keenness of the Opposition to take up the cudgels of opposing rather than looking at legislation more circumspectly, has allowed them to forget the fact that provisions in other laws of this State already effectively prevent what is sought to be achieved by this amendment. Proposed subsection (c) states, "where the disclosure of information is in the public interest and details corrupt, illegal or improper conduct". That would require the members of the board to report certain things. The Anti-Corruption Commission Act provides for persons to disclose information to the Anti-Corruption Commission, so I again ask members not to agree to this amendment because it is already covered in the Anti-Corruption Commission Act.

Mr BROWN: The proposed amendment seeks to provide a wider mandate than that currently available under the Anti-Corruption Commission Act. Under that Act it is possible for people to disclose - indeed, they should disclose - matters of a corrupt, illegal or improper nature to the commission. However, there are constraints in relation to disclosure. For example, if one establishes such a matter one can report it to the Anti-Corruption Commission but not to anyone else. The secrecy provisions of that Act state that one is not entitled to report generally to the community or to other persons that matters of such a nature have been reported to the commission. Then, of course, it is in the lap of the commission as to what it intends to do with that report, if anything.

This amendment seeks to provide that one need not maintain that confidentiality requirement if in the public interest one can disclose details of corrupt, illegal or improper conduct. It would be wider than the current provisions. It is important for us to be very clear about such conduct. Over the past 12 months I have become somewhat concerned about the manner in which inquiries are carried out by the Commissioner for Public Sector Standards and whether such matters are thoroughly investigated. If that lack of confidence on my part, and on the part of others, grows, we might well hear calls for provisions like this to be included in legislation. Some matters have been referred to that commission that in my opinion have not been dealt with appropriately; that is, they have not been dealt with in a thorough and proper manner.

I will not go into the details of the matter, but the Minister for Education knows that I wrote to him a while ago raising concerns about a serious matter at a school. The Minister wrote back saying that the matter would be fully investigated. It was referred to the Commissioner for Public Sector Standards and the Education Department undertook an inquiry. However, I found that a key witness was not interviewed. I have written to the Minister again about that matter -

Mr Barnett: Have you?

Mr BROWN: Yes. When matters of improper conduct are properly raised - that matter was with some others I have dealt with through the commissioner's office - and the results are less than complete in terms of the investigation, there will be calls for such exemptions to be made more generally. The Opposition is not seeking to cut across the Anti-Corruption Commission's activities. However, concern is being raised about the forthrightness of the investigation of some matters raised with appropriate authorities.

Mr COWAN: I dispute the claims made by the member for Bassendean in respect of any restrictions that might be imposed upon members of the Small Business Development Corporation in disclosing information of the kind referred to in this proposed amendment. The Anti-Corruption Commission Act allows for persons to disclose information despite any duty of secrecy or other restrictions on disclosure imposed under a written law. That is in the Act and there are no restrictions on that.

I am like the member for Bassendean: I am not a lawyer and I have not had a detailed opinion on the issue. However, there is almost an obligation on officers of the Small Business Development Corporation - in fact, on officers within the Public Service - when they identify conduct that in their view may be of a corrupt nature to disclose that to the commission. I cannot see how the proposal put forward by the other place can improve on that position. If there is a clear indication in the Act that irrespective of any written law an officer who is a public servant is able to disclose under the Anti-Corruption Commission Act what he or she believes to be a corrupt practice then we cannot improve on that. This amendment proposed by the other place is superfluous.

Mr BROWN: Perhaps I did not articulate my point very well, so I will go through it again. First, I agree that the Anti-Corruption Commission Act enables an officer - in this case a member of the Small Business Development Corporation - to report to the Anti-Corruption Commission any matters concerning corrupt or illegal conduct. I do not disagree with the Deputy Premier, who said that the Anti-Corruption Commission Act overrules the provisions of this Act to the extent that it imposes a confidentiality requirement on members of the corporation's board.

The second point I made is that under the Anti-Corruption Commission Act, there is a requirement on anyone reporting information to the commission not to disclose that information outside the report that he has made. That is, he is not permitted to advise anyone other than the commission that he has raised those concerns. I then went on to say that this clause seeks an opportunity to raise matters in a much broader way than -

Mr Cowan: It does not.

Mr BROWN: It does to the extent that the Act gives an opportunity for people to report matters of this nature to the commission notwithstanding any confidentiality provisions in this Act or any other Act. It does not give people the right to raise generally - that is, in public - matters of this nature and, by so doing, avoid the confidentiality provisions. If one raises it by going to the commission, that is fine; that Act overrides the confidentiality provisions. If a member of this board established that corrupt behaviour was going on and did not report it to the commission then the protection provided by the Act would not apply to that person.

Such a protection applies only in relation to reports made directly to the Anti-Corruption Commission. As I understand it, this clause seeks to give a much broader mandate to people to report corrupt behaviour. To the extent that individuals are confident about their complaints being properly dealt with by the Anti-Corruption Commission or by the Commissioner for Public Sector Standards or whoever, they will follow the procedures laid down. To the extent that they are not confident about those complaints being followed up and properly determined, they will seek the opportunity to raise these matters in general and seek this type of proposed escape clause. I can understand the clause that has been moved in the other place. It is a fall-back clause, as it were, for giving people the opportunity to raise these matters in a general way when they consider that they have come across corrupt, illegal or improper conduct.

Mr COWAN: I will explain to the member for Bassendean and other members who may be interested, and I am probably telling them something they already know, that if people believe that corrupt practice has occurred in a government agency, they have a responsibility to report it. They report it to the chief executive officer of that department. The CEOs are required to report to the Anti-Corruption Commission. This amendment will achieve nothing because officers will report such practice to their CEO, who is duty bound to report that corrupt practice to the Anti-Corruption Commission so that lawfully constituted body can investigate it. The amendment does not

broaden the scope of the clause at all and makes no difference to what prevails under the law at the moment. It may reinforce the law, and people may sometimes argue that there is some justification for that, but in this instance there is no argument for that. I have experience with another department - not the Small Business Development Corporation - for which I have responsibility. There has been one report of corrupt practices. The Anti-Corruption Commission and the Auditor General investigated it through the formal process. A CEO has an obligation under his responsibilities to report to the Anti-Corruption Commission, to the responsible Minister and to the Auditor General. That report of corrupt practices was investigated and in every instance found to have no substance. That was only one issue.

The member is suggesting that this proposal broadens the capacity of people to report corrupt practices. That is simply not true. If they report corrupt practices, as I have said, they must report to the CEO, who is required to report it to the Minister, to the Anti-Corruption Commission and to the Auditor General. Each of those people and that body are able, should they want to, to conduct an investigation. This amendment does not add to that or make any difference and provides no new channel through which a person can report, unless members opposite think that the person can go straight to the Press and make allegations.

Mr Brown: That is what this is.

Mr COWAN: We do not need to agree with that. I have seen enough small business people maligned by allegations of corrupt practices without providing people with a mechanism that gives them the freedom to do it. I would much prefer to see the present processes in place. They give an officer who is a public servant an opportunity to report corrupt practices and have the report of those allegations dealt with through the available formal processes, which I contend are adequate. For that reason I am moving that this amendment be disagreed with.

Question put and passed; the Council's amendment not agreed to.

Report, etc.

Resolutions reported and the report adopted.

A committee consisting of Mr Osborne, Mr Brown and Mr Cowan (Minister for Small Business) drew up reasons for not agreeing to the amendments made by the Council.

Reasons adopted and a message accordingly returned to the Council.

ENVIRONMENTAL PROTECTION AMENDMENT BILL

Cognate Debate

On motion by Mrs Edwardes (Minister for the Environment), resolved -

> That leave be granted for a cognate debate for the Environmental Protection Amendment Bill and the Environmental Protection (Landfill) Levy Bill, and that the Environmental Protection Amendment Bill be the principal Bill.

Second Reading

Resumed from 22 October.

DR EDWARDS (Maylands) [8.26 pm]: The Opposition both supports and welcomes the arrival of the Environmental Protection Amendment Bill and the Environmental Protection (Landfill) Levy Bill - particularly the first Bill. Its major concern is that the first Bill has been so long arriving; however it is pleased to support it.

The Environmental Protection Act was enacted in 1972. In 1986 the Act was updated and later the Ramsay review was commissioned. Its report was tabled in 1992. Since then the Opposition has been concerned that the recommendations of the Ramsay review have not been fully implemented. I will comment on that before I refer to the Bills before the House.

Recommendation No 5 of the Ramsay review was that the effectiveness of the operation of both the Act and the Environmental Protection Authority be reviewed in five years. The Minister put out a series of discussion papers on the Environmental Protection Act which members welcomed, but the review foreshadowed in the Ramsay report has not taken place, and that should be noted.

Another recommendation of the Ramsay review was that the Government should assess whether other natural resources management legislation should be reviewed. The Minister for Primary Industry established a task force on natural resource management and it put out a very good discussion paper. Unfortunately, not a lot has happened since then. This recommendation in the Ramsay report has slid off the table.

Perhaps the most significant recommendation that came out of the Ramsay review was that the State retain the primacy of the Environmental Protection Act and its processes. In the past five years the primacy of the Act and, subsequently its processes, have been eaten into and that is a pity. The changes proposed in the Bills before the House are timely. The Opposition looks forward to another Bill, which hopefully the Minister will introduce next year, that will deal with issues which are not covered by these Bills; for example, contaminated sites. People are very concerned about this issue.

The principal Bill before the House provides for a change to a more uniform system of environmental regulation and it is consistent with what is happening around Australia and the framework set down by the Australian and New Zealand Environmental Conservation Council. The most notable feature of the Bills we are dealing with is the move towards polluter pays. It is becoming embodied in legislation in this State that the polluter must pay. Another notable feature is the system of tier offences, and I will say more about that later.

I will now comment on the five parts of the Environmental Protection Amendment Bill. Part 1 is the short title and deals with commencement, and needs no further comment. Part 2 is an interesting section and deals with the tier offences and penalties. We were told in the briefings and the information we have read about the Bill that the aim is to protect the environment with the willing cooperation of all those involved. Everyone will agree that that is a laudable aim. The Opposition supports these changes, with the inclusion of the tiers of offences. Presently under the current Environmental Protection Act all offences must go before a magistrate. There is no doubt that that is a disincentive to prosecute. Out in the community the feeling is that the Department of Environmental Protection does not prosecute very often, although I think the incidence of prosecution has probably increased in the past year or so. The present Act makes no distinction between minor negligence, gross negligence and wilful action. In fact, before the last election we had in our environmental policy that we would create an offence to do with intentional pollution. We are very pleased to see the category of offences that are being created in this Bill.

The tiers provide for a gradation of offences. In fact, some minor breaches can now be dealt with by way of an infringement notice. Obviously if an offender receives an infringement notice, he or she or the principals of a company have the option of paying it immediately, rather than going to court. If people choose to go to court, the penalty will be higher than had they paid the infringement notice. If the fine is paid via the infringement notice, there is no court action and no offence is recorded. Importantly, a notice is kept and published in the annual report of the Department of Environmental Protection. That is an important feature of accountability. People will know what is going on.

Tier 3 refers to the minor offences to which I have just referred. These include breaches of regulations and are offences for which the maximum penalty is $5 000 and for which there is no daily penalty. As well as issuing an infringement notice, an inspector who has noted an offence like this can also issue a warning. That is a timely advancement. In that way people are put on notice that they are being watched and if they do not lift their game, some more drastic action will be taken. With these tier 3 offences the Minister's consent is not required for prosecution, and the Minister may not direct the chief executive officer.

For some time it has been of concern to the Opposition, and perhaps to all political parties, that the Minister's consent was required for prosecution. I am pleased to see that this Bill goes some way towards changing that situation. Tier 1 offences are the most serious. These provide for a penalty of up to $1m for companies or five years' imprisonment for individuals. It is consistent with the philosophy of this Bill that these maximum penalties apply to breaches of new section 49(2) which covers intentionally or with criminal negligence causing pollution and/or unreasonable emissions.

Most of the offences in the legislation, however, will be covered by the new tier 2 offences; for example, a breach of a licence condition will be a tier 2 offence. With this tier 2 offence there is a new system of what is called modified penalties. In some ways it is an infringement system. If certain criteria are met, a modified penalty can be imposed. The criteria are fairly obvious. They are that if an offence has been committed, the chief executive officer of the Department of Environmental Protection must be informed as soon as possible. The offending parties must also take all steps to make sure that they minimise and remedy any adverse environmental impact that occurs as part of that offence. During the investigation of the offence they must cooperate with the DEP and must show they have taken adequate steps to make sure this offence cannot happen again.

There must be no overriding reason that the penalty should not be modified. This will not apply to someone who has intentionally committed an offence, where the person is what is called in the second reading speech an excessive, repeat offender, and it will not apply if it is a particularly serious offence or part of an accumulation of offences. However, if a tier 2 offence meets these criteria, the offender will get a modified penalty. For a first time offence, it will be 10 per cent of the possible penalty, with the second and consequent offences being set at 20 per cent. These modified tier 2 offences are published in the newspaper as well as in the DEP annual report. There is an improved measure of accountability, which we think is acceptable.

In general terms the new penalties in this Bill increase by about 10 times. On top of that, there are new provisions where the courts can order rehabilitation of the environment either as well as or instead of the monetary penalties. We also note that inspectors are given a power of seizure, so that if people are about to commit a serious environmental crime - for example, they have a tank load of sewage and are about to dump it illegally - the inspectors, in this case, can impound the vehicle and prevent the action from occurring.

I have gone into some detail about the new offences and the tiers because I want to raise some concerns of the Opposition about this new range of offences. We have been told that for all tier 1 offences - that is, the most serious offences - there will be a new defence of taking "all reasonable precautions and exercising due diligence". We were told in the second reading speech that the interpretation of due diligence would be left to the courts. We were also told that environmental standards have been developing rapidly and if the defence is defined, it could quite quickly become outdated. This is one of the most contentious issues arising from this Bill. In talking to community groups, industry groups and lawyers, I found that this is the issue that crops up the most often.

The Opposition agrees that existing section 74 provides a narrow range of defences. We also agree that when penalties are increased - in some cases they are being increased by up to 10 times - more defences must be provided. We acknowledge that the aim of the new system of both the increased penalties and the modifications and infringements, depending on the tier about which we are talking, is to set behavioural change and to promote environmental responsibility. In other words, the aim is to have people, when they commit an offence unintentionally, to report it to the department as soon as possible and to remedy the action and to take other steps to make sure it does not happen again.

However, my concerns are these: Firstly, my understanding is that there is no legal precedent in Western Australia for a defence of due diligence. When I have looked around and spoken to people, there appeared to be some problems. For example, I understand that in New South Wales recently the defence of due diligence was rejected at common law, even though it is in that State's equivalent of our environmental protection legislation. In another recent case in New South Wales in the court of criminal appeal, it was said that the industry code of practice was not sufficient to represent reasonable caution and due diligence. I guess this will be an evolving law and we will all watch it with interest. I suppose these examples make us understand why the Minister is not defining due diligence, although we have further concerns.

Today I was faxed a paper entitled "A Comparative Analysis of Australian and Canadian Approaches to the Defence of Due Diligence". It was faxed from New South Wales and I am unable to read it because it is so blurred. It followed a conversation between my office and the New South Wales Department of Environmental Protection.

I was able to decipher from that facsimile that Canada recognises a defence of due diligence at common law, so comparison between Canada's system and ours is logical when considering this issue. I understand from the article that New South Wales is the only State in Australia that has a defence of due diligence. Is that correct?

Mrs Edwardes: Yes.

Dr EDWARDS: It said the prevailing view of legal practitioners in that State is that the due diligence defence will rarely succeed. It also said, and it is obvious, that there is a lack of judicial comment about what due diligence means given it is used in so few cases. However, comments made in this discussion paper that compare the Canadian approach with that in Australia, are that due diligence tends to be hybrid in nature and cannot easily be characterised. Elsewhere in this paper it is also described as a "nebulous legal concept".

Interestingly, comments made in the paper suggest that Canada is happy to apply an industry standards test. If an offence is committed and an industry standard exists, it is happy to examine that. That is where due diligence comes in, because a yardstick is available by which the courts are happy to be guided. According to the article, written by a solicitor from the Commonwealth Office of the Director of Public Prosecutions, Australian courts are reluctant to accept due diligence being part of what they call "mere adherence to applicable standards".

The Minister is raising a whole new area of law that will develop over the next few years. We will all watch it and perhaps changes will need to be made in the future.

I refer now to another problem associated with this defence. It was put to the Opposition that the defence of both reasonable precautions and due diligence will be hard to interpret and perhaps due diligence covers reasonable precautions. I am aware that the department has given an example of a company storing a reagent in a tank and having a bund around the tank capable of holding 110 per cent of the volume represents a reasonable precaution. Apparently if a sump is installed to manage failure of the bund there is due diligence.

It was said to the Opposition that the meaning of those two sets of words, "reasonable precautions" or "due diligence" is unclear. Concern exists that the courts will start to interpret the meaning, but they will not have many cases on

which to base their interpretation. The comment was made to me somewhat casually that they might start inventing stories to fit the two levels of defence. I would be interested to hear any comments the Minister has on that when she responds in this debate.

Given that the tier two offences can attract fines of between $10 000 and $100 000, was consideration given to having a due diligence defence for those offences? If so, what consideration did the Minister give and why in the end did she choose not to extend it to that tier of offences?

I refer now to the landfill levy under part 3 of the Environmental Protection Amendment Bill which deals with waste management. Our local government spokesperson, the member for Rockingham, will expand on comments under this section. However, the Opposition's first concern is a practical one; that is, the Bill provides for the levy to increase each year. The Opposition wants some reassurance from the Minister that it will not escalate widely to become a significant impost on people.

The Opposition would also like some idea of the administrative costs of collecting the levy and managing the fund. Clarification on the way the money will be used will also be welcome. A very serious question concerns the extent to which recycling, reused waste and waste avoidance will be improved by imposing the levy and having the fund. If the Minister has ideas about that the Opposition will be very interested to hear them.

Members on this side of the House have considerable sympathy with the concerns expressed by the Western Australian Municipal Association. For example, it pointed out that many features of the levy will be in regulations that we have not yet seen. In fact some important issues are yet to be made known to the Opposition. Neither of the Bills spells out in great detail the classes of waste to which the levy will apply.

Also unclear in the Bills is the geographical extent of the levy. The Opposition has been told categorically that it does not apply to non-metropolitan waste in non-metropolitan landfill. That is not clear from reading either of the two Bills. The Opposition also believes that after a period the levy should be reviewed so that we know it is working and we are getting the maximum benefit from it. When the Minister responds, will she indicate whether, under clause 110(c), local councils will be required to pay a financial bond to the chief executive officer of the Department of Environmental Protection? The clause can be interpreted in a number of ways.

Another issue concerns the Advisory Council on Waste Management. The Bill refers to a body of people who can give advice. In her second reading speech the Minister said that a number of features of the levy will be the same as those in the discussion paper. However, I am not clear about the future membership of the Advisory Council on Waste Management and the way in which it will continue.

The discussion paper indicated also that the legislation would provide the Minister with the power to appoint advisory bodies and I guess that is covered. The paper further said that the legislation will enable the Minister to change the status of the advisory council from a committee to a statutory board. That is not in the legislation. I would appreciate any comment on why that is not so.

The discussion paper said also that the legislation would set out the objectives, functions and powers of the Advisory Council on Waste Management. Over a number of pages, the discussion paper refers to the objectives, functions and powers of the council, but they are not in the Bill. The Opposition is concerned that an independent body is needed to give the Minister good independent advice. We are also concerned about what appears to be a close relationship between the Advisory Council on Waste Management and that division of the DEP. The Opposition would like the council to be separate and independent so the community is assured that the advice it is providing is not just from the department but that a wider audience is being canvassed. The Opposition would also be interested to hear if any changes will be made in the composition of the Advisory Council on Waste Management, assuming it will continue.

I turn now to Part VIIB - Waste Management Operations. The major difficulty the Opposition has with this is the notion of Waste Management (WA), the new authority created to manage waste, consisting solely of the CEO of the DEP. Again, the discussion paper spelt out clearly the role of the State Government in managing waste and the Opposition agrees with its sentiments. It also spelt out quite clearly that, on occasions, the State Government should act as an operator in the waste management industry. Obviously this refers to hazardous waste where there is an overriding public interest in having the State undertake its long term management.

The question then is how to manage the conflict which occurs within the Department of Environmental Protection, which is operating and regulating such a facility, licensing other facilities, and setting policy. The paper discussed the issue. It went through the conflict and considered how the roles should be separate and accountable, and impartiality should not be compromised. The discussion paper stated that the proposed solution to the conflict was to give the Minister for the Environment body corporate powers. However, when the legislation came to Parliament, the power was given to the chief executive officer of the Department of Environmental Protection. We have had some cheeky thoughts about this. We do not intend to move an amendment, because we do not think it is appropriate.

The Opposition does not have the administrative skills to produce the best solution. However, we did think about giving the Department of Resources Development that power because if any department should know that one person's waste is some other industry's opportunity, it would be that department. People in that division of the DEP came from Commerce and Trade and have a background in the area. However, the Minister will be relieved to know that we will not move such an amendment.

Mrs Edwardes: I think the responsible Minister would be relieved to know that!

Dr EDWARDS: We did not discuss it with the Minister.

This is a serious issue. Currently the perception in the community is that conflict exists within the Department of Environmental Protection over Mt Walton, which is not viewed very seriously as a bad conflict. However, the more serious perception of conflict relates to the Stephenson and Ward incinerator. The department has been closely involved in the upgrading of the incinerator and in the process which involved all other medical waste incinerators being closed. It is involved closely in the day to day regulation and running of the place. Those sorts of conflicts should be sorted out. There must be a better mechanism to do that rather than the CEO of the department being the authority in those situations.

I turn now to part 4 of the Bill which contains miscellaneous amendments. The first group relates to the implementation of national environmental protection measures. That requires no further comment. I will comment on the provision of powers to regulate the sale of wood fired heaters and dry firewood in this State. Why has it taken so long? Apart from Victoria, most other States in Australia moved a long time ago to ensure that only wood heaters complying with Australian Standards should be sold. When I asked about this matter previously I was told that it involved trade practices concerns. However, when I raised the issue with departments of environmental protection in other States, they did not know about the concern; and they had never run into any problems. I doubt that was the stumbling block.

Mrs Edwardes: I do not have an answer.

Dr EDWARDS: The work undertaken by the Federal Government's study on urban air quality indicated that Victoria and Western Australia have a significant haze problem from wood heaters. An off the cuff comment was that that may relate to the fact that our wood heaters do not comply with Australian Standards. The two States that are lagging behind do not apply the standards that other parts of the country have embraced. We are pleased that this situation is about to be rectified.

I wish to make some brief comments about particulate matter and health. Obviously we are regulating wood fired heaters so that haze and particulate matter in the atmosphere is diminished. My brief comments here will be augmented by the member for Fremantle. The haze study indicated that up to 70 premature deaths each year occur in Western Australia as a result of this type of air pollution. This is a problem that needs to be tackled. We welcome the action taken by the Government in this regard. Our concern, though, is that the problem might be worse than that. It could be that in country areas - for example, in Busselton - where the department has started some testing, the haze problem could be as significant as and perhaps even more significant than in the metropolitan area, in small pockets in country areas.

Some studies have been done worldwide about particulate matter and haze. A number of features are emerging from those studies. One feature is that early deaths from heart causes are now sometimes seen to be linked to haze. Before it was thought that people with serious respiratory problems died when a haze problem existed, but now the evidence is that people with heart problems also die prematurely. In some parts of the world, more people are dying from heart problems than from respiratory problems. Therefore, the impact seems to be different in different parts of the world. There is a lot we do not know about the health impacts of haze, and we should be doing as much as practicable to decrease the problems from haze.

The haze report stated that there is a 1 per cent increase in mortality for each 10 micrograms per cubic metre increase in PM10s - that is, a size of particulate matter of 10 microns. Unfortunately this effect has been seen as low as 20 micrograms per cubic metre. Therefore, even at very low levels of haze pollution, health effects are being seen.

My concern from reading the literature is that people are now talking about tiny particles - PM2.5 and smaller - and the fact that it has been noted that trace metals attach to the particles. The concern is that these trace metals are getting into people's bodies and lungs in a way not thought of before.

The Opposition applauds the move to make sure that stoves meet the Australian Standards. However, we are concerned that nothing in the legislation talks about legislation. One issue is the height of chimneys. The Minister has written to me stating that that issue could be covered by local government building permits. However, I understand that people do not need a permit to instal a stove. I am not sure exactly how that would be covered by

local government provisions. Underlying all of the problems of wood stoves is a need for a community education program, so that people are aware of the problems and feel some personal incentive to change their behaviour.

The Opposition supports the Bill. In some ways it is a complex Bill. It has five parts, four of which contain significant changes and improvements to the Environmental Protection Act. We have some concerns which I have outlined, and further concerns will be addressed by the member for Rockingham. We look forward to an opportunity in Committee to clarify further some of those concerns.

MR McGOWAN (Rockingham) [8.57 pm]: I will confine most of my remarks to the proposed waste levy, because that subject relates mainly to local government which is my shadow portfolio responsibility. The waste levy has been considered at length by local government. I have received a number of submissions from local governments and from local government representative associations on the waste levy, because a good deal of concern exists among those organisations and local governments regarding the effect of the levy upon their operations. However, one must always bear in mind the fact that waste management is an issue of increasing importance owing to the fact that society is producing excessive amounts of waste, and it is difficult, particularly in metropolitan areas, to dispose of that waste.

Various statistics have been gathered on when metropolitan landfill facilities will be full. The problem is not only to find suitable sites but also to meet the cost of maintaining and managing those sites. If we can reduce the amount of waste going into the sites, that should be the ambition to which we aspire. Naturally, recycling has been a large contributor to the reduction of waste going into landfill sites, and no doubt that will continue. I hope this levy will be of some assistance.

Perth's problem with waste management is not as critical as that experienced in other cities of Australia, particularly Sydney and Melbourne. I acknowledge that it is a major problem which needs to be dealt with.

I will go through the mechanics of the legislation before spelling out some concerns. I hope the Minister will answer my queries in reply. The Environmental Protection (Landfill) Levy Bill provides the power to introduces a levy on waste deposited at landfill. It will establish a trust fund in which moneys can be received and deposited. It has various mechanical provisions in relation to the administration of that fund, and provides for determining the levy depending on the waste involved. The two types of waste are inert waste and putrescible waste, for which different rates will apply. I am not sure whether the Minister will raise other categories, and I will raise that point later.

Also, the Bill sets out responsibilities with the Minister for funding various programs for which this levy will generate funds. Therefore, the Minister will have an important responsibility. Also, the Minister can take advice from an advisory council on the projects to be funded in the future.

Every year in Western Australia we produce 1.4 million tonnes of waste each. That is probably a little simplistic, and I am not sure whether that figure includes industrial waste. However, it is the statistic provided to me.

The cost the Government is intending to impose is $1 a tonne for inert waste, and $3 a tonne for putrescible waste. The rate of the levy will be prescribed by regulation and will be payable by the licensee of premises at which the waste is received. Therefore, it seems from my reading of the Bill that the onus will be on local government receiving the waste to collect the levy, to ascertain the amount of waste deposited at the landfill, and to pay the receipts to the Government.

Mrs Edwardes: It will be whoever is the operator of the landfill site.

Mr McGOWAN: So it will operate with private landfill sites also, although most landfill sites are run by local authorities. A number of concerns about this proposal were set out in a letter I received from the Western Australian Municipal Association. I hope the Minister will be able to respond to these queries in reply to the debate. The concerns of WAMA, firstly, involve the classes of waste to which the landfill levy will apply. It felt that the waste types should be spelled out in legislation to ensure an open and accountable process of review and adjustment can take place in the future depending on the classes of waste categorised by the Government.

Also, WAMA would like to see a sunset clause inserted in the legislation to ensure that a public review of the effectiveness of the landfill levy takes place in three years. I understand that such review is the practice in such Bills in a number of States. The Minister should consider that suggestion. The idea has some sense. At least it will ensure that the matter will be reconsidered in the future rather than allowing the levy to continue indefinitely without review.

Thirdly, under proposed section 110C of the Environmental Protection Amendment Bill - the larger of the two Bills before us - provision is made for financial assurance through regulation by the Minister. Under this proposed section, one will be entitled to require a licensee, whether local government or private operator, to provide a financial assurance for the purpose of securing or guaranteeing payment of the levy.

By that, I assume that the Minister will seek something of the nature of a bond from people operating landfill sites, and that the bond will be held in a fund. That bond will be available to meet the cost of landfill should that person not meet his or her obligation in the future. That is probably a mistake because local government, like State Government, is under financial pressure at the moment. It always has been and always will be.

Mrs Edwardes: The member for Maylands raised that point as well. It is not likely to apply to local councils. It will apply in circumstances where some doubt exists whether the levy would be properly collected and passed on. The circumstance we envisage are with private operators of those inert landfill sites. We do not have a problem with local councils in this regard. We see them as doing the right thing.

Mr McGOWAN: I accept that comment, but surely no regulation should apply to local government, which should be excluded from the provision. That will give them the assurance that they are not suspect in the collection of the levy. Also, the application of a bond does not reflect a good view of people in business, especially as an onerous fine will apply for the non-collection of the levy under the Bill. I am not sure what happens in other States regarding collecting bonds from operators, but it would not appear to be a good idea. In light of the nursing home debacle, the Minister might like to reconsider that proposal! We might address that point in Committee.

Another concern set forth by the Western Australian Municipal Association relates to the expenditure of trust funds. Naturally, the Minister would have projects in mind. The Minister will establish a grouping of people as an advisory committee on how the money raised by the levy will be spent. WAMA's argument is that the Minister should have an independent authority with the power to allocate money to various projects on a non-partisan basis. This authority should involve representatives from local government, and these people should be able to make decisions about the spending of the money without reference to the Minister. It is claimed that they should have the authority of the Bill, and that it should be an independent operation. The Minister should take advice.

I am sanguine about an independent authority making the decision because how the money is spent is a very important question. Undoubtedly, a huge number of waste management projects would like to receive funding.

The Minister for the Environment indicated in her second reading speech that within four years she would like to halve the amount of waste landfill from each individual in Western Australia from 1.4 tonnes to 700 kilograms of waste per annum, based on the funds and the regulations that are put into effect under this legislation. What projects does the Government have in mind? Are they specific projects or general projects? That is an ambitious target. I do not know how the Government intends to meet that target. It is something the Minister for the Environment must address in summing up the debate tonight.

I have a major concern about how the levy will be collected. The second reading speech states that the persons or authorities responsible for administering a landfill facility are responsible for collecting the levy and that it is up to them to ensure that that money is then returned to the Government. New section 110G sets out fines for people who do not pay the levy or who attempt to evade the levy. A penalty is provided of "$5 000 and treble the amount evaded or attempted to be evaded". Does that fine apply to individuals who merely do a bit of dumping in the bush? Does it apply to people who do not take their rubbish to a landfill facility but who dump it where it should not be? I am concerned about the way a local government or private operator will have to collect this levy.

The second reading speech indicates the levy will be collected at the gate of a facility. However, I fail to see how that could operate in all circumstances without householders' rubbish being weighed. Does the Minister intend to impose on the local authority a levy based on the amount of rubbish coming into a landfill facility and must the authority collect that amount of money via rubbish rates and return that money to the State? Does the Government intend that a specific fee be added to every truckload or carload of rubbish that is taken to a landfill facility? These are important questions because this levy will be transferred to individuals who take their rubbish to the tip. The Government must ensure the mechanism is right before it comes into effect.

That raises the issue of the administrative costs of collecting this levy and forwarding the levy to the Government. If a local government authority is to collect the levy, it must be collected either by an increase in rates or as a fee at the gate of a facility and forwarded to the trust fund. That will involve labour by a local government authority or landfill facility and it will involve expense and paperwork. It is somewhat unfair to transfer this burden to a local authority and require it to act as the State's tax collector but not reimburse the authority for the costs it incurs as a result of collecting that tax for the State.

I seek an assurance on increases to the levy. The levy will be set at $1 a tonne for inert waste and $3 a tonne for putrescible waste. The Bill sets out a scheme by which the waste costs can increase via regulation. I agree with that: There should not be an Act of Parliament every time the Government wants to increase a fee or levy. This is a fair and reasonable provision. However, what are the intended increases in the cost of the levy? Does the Government intend to peg it to the consumer price index or to raise it without any reference to that?

Will the levy increase? How will the Government reimburse local government? How will the collection mechanism operate? The second reading speech is somewhat confusing about that. Will the Government amend new section 110C to ensure large bonds are not collected from private businesses or local government authorities? That is an important question because people should not be regarded as being criminal in these matters and have a fine imposed on them in any circumstance. I look forward to the Minister's remarks.

MR McGINTY (Fremantle) [9.16 pm]: The contribution I will make to this debate will focus on the welcome provisions in the legislation relating to the control of the emission of particulate matter. In particular, I refer to the provisions in this legislation that any wood stoves that are installed for the purpose of domestic heating must comply with the Australian standard, and that wood that is sold through commercial woodyards be required to have no greater than 25 per cent moisture content. Each of these is a significant move. One might say they are belated; nonetheless, they are welcome.

In the past few years Western Australia has suffered from not having these provisions in place. Anecdotal evidence is available that Western Australia has become something of a dumping ground for badly polluting wood heaters because of the requirement in most States that wood heaters comply with the Australian standards that are designed to achieve low levels of emissions of particulate matter. Western Australia has not had that constraint. This legislation will bring this State up to standard and, in the long run, make a significant improvement in the quality of the air we enjoy in Perth.

This is an important measure. I will deal tonight with the health effects of excessive amounts of small particles, particularly from combustion in the air, and the effect that has on the health of the citizens of this State. Too often people in Western Australia look upon the hazy conditions in our air, which is pollution of our air, as simply a visual or aesthetic problem: We do not like seeing our buildings in Perth clouded in smoke or haze. Although the aesthetic considerations are important, they are not the most important matter at stake. By far the most important issue is the effect on the population of breathing in this particulate matter, which comes predominantly, but not exclusively, from combustion.

In 1996 the results of the Perth haze study were presented to the public. For the first time the attention of the public was drawn to the problem of particulate matter or haze in the atmosphere. It is a problem which, unfortunately, seems to have been downplayed by some government authorities.

I was somewhat disappointed during the course of the Estimates Committee debates when we were dealing with the question of health. This debate was in the aftermath of the presentation of the Perth haze study which had projected that there were approximately 70 deaths in Perth each year on account of particulate matter in the atmosphere or haze pollution. During the course of those Estimates Committee debates a question was put to the head of the public health division of the Health Department by the member for Maylands who asked -

> The Environmental Protection Authority's haze study suggests there are 70 premature deaths each year because of particulate air pollution. What is the Health Department doing about that problem?

The response from the head of that division of the Health Department was disappointing. It came in two parts. The first was to downplay the problem and to suggest that the Environmental Protection Authority got it wrong. Dr Psaila-Savona told the Estimates Committee that the people who conducted the haze study took a very conservative view of the number of deaths that do or could occur. He then criticised the methodology of the study, which is a methodology accepted around the world but seemingly not in our own Health Department. Dr Psaila-Savona stated -

> One of the problems of that study - I was able to make comment on it - is it tried to extrapolate that for every microgram of increase in pollution there would be 10 additional deaths. That might hold very clearly for high levels of pollution, but when the pollution decreases that relationship may not hold . . .

He went on for another few sentences basically to criticise the methodology of the Perth haze study which projected there would be 70 deaths in Perth each year from pollution. It was a disappointing response because since then a wider variety of international studies have become known to people. They are of a fairly alarming nature. Tonight I will talk about those studies in the context of the measures which are contained in this Bill, which I hope will provide some small relief, albeit significant, and contribute to reducing the level of particulates in the air. It is a serious matter which does not appear to have been treated with the seriousness it deserves. I hope that what we see in this legislation will be followed up by action in other areas to control the level of emission of particulates into the atmosphere for very good health related reasons.

Particulates in the atmosphere come from a variety of sources. In Perth, fairly uniquely in the world, the majority of those particulates come from domestic wood heaters. This legislation will require every wood heater to be installed in a house to comply with an Australian standard which is designed to achieve low emissions of particulates. That will address the biggest cause of particulate matter air pollution in Perth. The other major source of particulates

are emissions from diesel engines. In fact, the second biggest source of particulate air pollution in Perth is vehicle emissions and two-thirds of the particulate emissions from vehicles come from diesel engines, even though they constitute only 10 per cent of the vehicle fleet. A significant contribution is made by dust blown up by the wind, and by Department of Conservation and Land Management controlled burns which generate a significant amount of smoke into the atmosphere. We also have a chemical reaction occurring when pollutants in the air mix, particularly during the summer months, to form photochemical smog. We also have the problem - although it is diminishing in the metropolitan area it is still significant in rural areas - of agriculture burning. By and large backyard burning is diminishing in Perth as a result of actions taken by local government authorities. However, it is still a contributor, as is the practice of developers when they clear new areas for housing of burning off the native vegetation on those blocks. All of those are significant sources of particulates in the air that we breathe.

Mr Cowan: Agricultural burning is not a practice that is increasing; it is decreasing quite rapidly.

Mr McGINTY: Yes, and as I said, backyard burning is also decreasing. Nonetheless, it is important to identify the sources of particulates and, by whatever means available to Government and this Parliament, to discourage those practices that see those particulates released into the air.

Until recent times, generally speaking, the approach of the relevant authorities has been to look at what is referred to as PM 10 or particulate matter of 10 microns or less. However, in recent times we have seen a significant appreciation that it is the very fine particles in the air that cause the greatest problem to health. They are referred to as PM 2.5. In many senses the sources of both coarse and fine particulates can be similar. For instance, both come from burning. It is important to note that while their sources are similar, they are also different. The more coarse particulate matter, PM 10, comes predominantly from natural causes - dust, sea spray and things of that nature - and because of their size they do not remain suspended in the air for as long as the finer particulate matter, PM 2.5. That comes predominantly from combustion - here I refer to vehicles, engines, and burning, whether in a domestic wood heater or open burning, as well as the chemical reaction of gases which are currently polluting the atmosphere. Because the PM 2.5 is a lot smaller and lighter, it tends to linger much longer in the atmosphere. The other very important fact is that because of the relative coarseness of PM 10 it gets caught in the nose and mouth and can be regurgitated by coughing. PM 2.5 is inhaled directly into the deeper parts of the lung and therefore gives rise to health problems that I will talk about in a few minutes.

It is significant that in recent months the United States Environmental Protection Authority has adopted a standard for ambient air quality based on particulate matter of 2.5 microns or less. That is a recognition of the nature of the problems that it generates for the public at large. It is a recognition of the health issue that is involved.

I will refer generally now to the question of the health implications. The fine particulates, or PM 2.5, are now recognised as a major source of health problems. It is far more important than PM 10 in that overall equation. From our lungs' point of view, bigger particulates are less harmful. Because of their weight, particulates larger than 10 microns settle to the ground quickly. If people inhale them, they tend to collect in the throat and nose and are eliminated by sneezing, coughing, nose blowing or through the digestive system. It is now recognised that particulate matter is far more harmful to health than the better known forms of air pollution. I am sure all members will have had raised with them by their constituents various forms of air pollution, but the authorities around the world today recognise that particulate matter is far more damaging to the health than ground level ozone, sulphur dioxide or carbon monoxide. The particulate matter 2.5 can penetrate deep into the lungs. It collects in tiny air sacs called alveoli where oxygen enters the bloodstream and, as a result, it can cause breathing difficulties and sometimes permanent damage to the lungs. A number of potentially harmful substances have been found in particulate matter 2.5.

I refer to the chemical makeup of the smaller particulates. Sulphates, produced from sulphur dioxide emissions, are acidic in nature and may react directly with the lungs. Alimental carbon produced during wood and engine combustion can pick up cancer causing chemicals, such as benzoapyrene and give them a free ride to the lungs. Hundreds of organic carbon compounds, in addition to benzoapyrene, have been identified in exhausts from vehicles and combustion processes. Several studies have shown that toxic trace metals, such as lead, cadmium and nickel, are more concentrated in PM 2.5 than in bigger particulates. That is all cause for some concern. Quite clearly, the particulate matter should be considered as the worst form of air pollution in Western Australia. People should put to one side those outmoded notions that air pollution is about those smelly emissions from industry, sulphur dioxide and carbon monoxide from cars because that is simply nowhere near as damaging to the health of individuals as particulate matter, particularly fine particulate matter of 2.5 microns or less.

I touch now on some of the alarming international research dealing with particulate matter. It has been shown in other countries that exposure to high levels of PM 10 can play a role in the development of many kinds of respiratory diseases, including asthma, bronchitis, pneumonia and emphysema. Even more serious, this kind of air pollution is associated with a significant rise in the number of premature deaths. We are all aware of the Hames study that found

that such pollution was estimated to cause 70 premature deaths annually in Perth. Senior citizens and those who already have lung or heart problems are most at risk, but normally healthy adults and children can be affected. We are all aware that if people breathe in particulate matter from air, smoke or haze, it will not be good for their lungs and respiratory system. However, it came as a surprise to me to learn that people with cardiac conditions are also very much at risk, because particulate matter appears to have a significant effect on the cardiac system as well as the respiratory system. Research undertaken internationally now clearly demonstrates the importance of recognising and moving to protect those whose cardiac system might be under some threat from exposure to this particulate matter.

My first point is that it is not simply about the respiratory condition of people; it is also a very serious threat to the health of people's hearts and cardiovascular systems. The second issue I touch on is the results of international studies that show the impact of particulate matter in the air on children.

British Columbia is not unlike Western Australia in many respects; it is a west coast State, with a large urban population concentrated in Vancouver, a sparse rural population, some other larger centres, and also a significant timber industry. That area was the subject of a study conducted in Port Alberni. It established, for the first time, that exposure to particulate matter in the air gave rise to health problems in otherwise healthy children. This was done by measuring the amount of coughing in otherwise perfectly healthy children, excluding asthmatics. It studied those children over a period and the extent to which they showed symptoms of coughing.

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

Mr McGINTY: That study showed, for the first time, that it did not result in the premature deaths only of those people on their last legs who died a day, week or month earlier than they would otherwise have done. The exposure to high levels of particulate matter in the atmosphere has caused health problems of a respiratory nature in otherwise healthy children. Of course, the results of that study cannot be immediately transported from British Columbia to Western Australia, but I ask members to bear in mind that Western Australia has an unacceptably high level of haze in the atmosphere and we should ask what it is doing to the health of children in this State. If the Port Alberni study were transported to Western Australia, it would mean the air pollution in the form of haze from wood heaters, diesel and motor vehicles, and the other sources I mentioned earlier, is shortening the life expectancy of our children. It is causing them to contract respiratory problems at relatively early ages as a result of the particulate matter in the air and especially the fine particulate matter of 2.5 microns or less.

It is a most worrying study and one of which the health authorities and environmental authorities in this State should be aware. They should take it up and analyse it to see whether it is appropriate to apply that study in Western Australia. The impetus for regulation and change of the nature contained in this legislation, with regard to wood stoves and supplies, should be extended to the other polluting activities that affect our daily lives. When the people in this State become aware that the health and respiratory condition of their children are being injured because of the air quality in Perth, which they expect to be perfectly clear and healthy, I think there will be a clamour for a significant change to be made in that area.

I now touch on another interesting and alarming fact relating to the position of country towns, particularly in the south west of the State. I refer to wood heaters, controlled burns by the Department of Conservation and Land Management and general burning in the bush in the south west of the State. Again, the studies that have been done in British Columbia, which, as I indicated, has a number of parallels with the situation in Western Australia, on the effect of particulate matter on deaths have shown that far more people die in the country prematurely because of inhaling particulate matter than die in the city. Three-quarters of the population of Western Australia resides in Perth, one-quarter resides in the country, and obviously less than that number resides in the south west and is affected by bushfires, controlled burning and wood stoves. I am thinking here particularly of towns that are situated in a valley and where during winter the wood heater is burning 24 hours a day in every house in the town. It is not uncommon in winter to travel in the south west and come over a hill to see a town that is blanketed by a cloud of smoke.

If those studies from British Columbia are accurate, it is frightening to think of what that is doing to the population of this State, because in Western Australia, as in British Columbia, the majority of the population lives in the major city and a far smaller and very dispersed population lives in the country, where it is exposed to controlled burns and the burning of waste products associated with the timber industry.

It is interesting to note in this context that the Department of Conservation and Land Management in predicting weather patterns tries to avoid those meteorological conditions where the smoke that comes from controlled burns will blanket the city of Perth, whether directly or via having been blown out to sea and being blown back into the city on the sea breeze. However, no regard is paid to that same smoke blanketing country towns in the south west of the State, such as Busselton, Bunbury, Manjimup and Collie. That is of grave concern, because if the results of the British Columbia research can be transported to Western Australia, the people at greatest threat of premature death are those who live in country towns or areas. It is interesting to note that while more people die in country areas than

die in the city from particulate pollution, if one looked at that on a per capita basis, the number of people who died in the country compared with the city would be exponentially greater. That is a cause of some concern.

People who live in the south west of the State need to know about the threat that is presented to their health by their exposure to particulate matter from burning, whether it be from CALM controlled burns, wood stoves, or whatever. People in the city think they have a problem with particulate matter from diesel engines and other forms of air pollution from vehicles. However, people who reside in the south west of the State are confronted by a far greater and more life threatening problem than are people in the city.

It may be time to examine the burning operations of CALM. While I have no objection to controlled burning to reduce the amount of litter on the forest floor, far greater weight needs to be placed on the health impact of that burning, not just in Perth but also in towns in the south west of Western Australia. Perhaps we should start with people's wood burning practices in their own homes and get that message through.

People need to be very concerned about the effect on their children of breathing in smoke or particulate filled air. People need to be particularly concerned if they live in the south west of the State, where the incidence of particulate matter in the air is greater than it is elsewhere in the State. People need to be aware that not just respiratory conditions but also cardiovascular conditions are threatened by particulate matter in the air. While I welcome the provisions in this legislation to limit particulate emissions from wood stoves and the wood itself, far more needs to be done to reduce particulate levels in the atmosphere from the point of view of the health of the population.

MR KOBELKE (Nollamara) [9.45 pm]: I will direct my remarks to the initiative taken in the Environmental Protection (Landfill) Levy Bill and the Environmental Protection Amendment Bill to establish a levy for sanitary landfill in metropolitan Perth. .

I will begin with my involvement with the Atlas landfill site in Mirrabooka in my electorate, which takes all of the domestic rubbish, and much more, from the City of Stirling. The levy of $3 for putrescible waste is not likely to apply at that site because it is no longer licensed as a putrescible landfill site, but it is licensed for inert waste, and on that basis it will have to pay a levy of $1 per tonne. I will outline some of the history of the control of landfill sites in Perth, because I can remember the Hertha Road tip at the City of Stirling 20 or 30 years ago when there was an ongoing chorus of concern from local residents about the impact of the smell and rubbish from that tip. That site was basically a swamp near what is now Stirling Station and was a major rubbish tip for many years. When that tip was closed, the City of Stirling used a transfer station at Balcatta for the collection of household rubbish, which was then transferred to the Atlas site in Alexander Drive, Mirrabooka.

I can remember that during my days as a schoolboy in the 1950s in Bayswater, some of our best playgrounds were the swamps and wetlands that were used, either officially or unofficially, as landfill sites. I played in Lake Monger as a boy, and it used to be great fun to use some of the bits of rubbish to paddle around that lake, because much of the western, eastern and northern side of that lake was a landfill site. Those examples can be contrasted with the degree of control and standards that we have now with regard to landfill sites and which we continue to increase.

This levy will provide a financial incentive to try to discourage people from getting rid of waste at landfill sites while recognising that, for health and hygiene reasons, we must have an effective way of disposing of household waste and other rubbish. It is cost effective at this time to use landfill in metropolitan Perth and in country areas. When we look at what happens with waste disposal in other large cities around the world, we find that the cost structure is totally different. Huge costs are involved in transporting that rubbish out of the city, whether to dump it on land or at sea, and that is accompanied by a range of environmental problems.

We may have been victims of the fact that we have been able on the sand plains of Perth to dispose of our household and other rubbish cheaply and not have to pay much regard for the environmental problems which have been created and which continue to accrue. It is time that we toughened up the provisions and improved the standards, and this legislation is one more move in what has been a long process.

I will outline some of the developments, particularly as they relate to my electorate of Nollamara and to the landfill site run by Atlas in Mirrabooka.

The former member for that area, Hon Keith Wilson, was the Minister for Health at that time and control of landfill was his responsibility. Being very aware of the problems affecting surrounding residents, in 1989 or 1990 he moved to try to put in place tighter requirements for landfill. As much as he might have wished to have that site closed, clearly no government Minister can take unilateral action in respect of any particular site and not apply the same rules across metropolitan Perth, as we are doing with this levy.

Hon Keith Wilson then set about developing guidelines for landfill. The Government went through a whole range of processes in consultation with local government and the people managing landfill sites. The first set of guidelines

was released in 1991 and the second in 1992. They were supposed to be enforced as at 31 December 1992, but they were not. With the election of the Court Government in early 1993, the whole process was put aside for a time. That clearly is in part due to the new Government's coming in and having to set its own priorities and get on top of a whole range of processes under consideration at the time. There was a bit of undue slippage in tightening up that process and the guidelines did not come into effect until 1995.

There was also a change in the conditions, which in some respects should have been tightened up. The aspect to which I refer is the buffer zones. There was a requirement that all new landfill sites have a buffer zone of 500 metres. Clearly that would have closed down sites such as the one in Mirrabooka. There was a phasing in period over a number of years and changes were made to the technical conditions of the buffers which meant that the stringent conditions with which Atlas would have to comply were loosened considerably. Although that is critical, I must also recognise the very substantial and positive steps made by the Government in tightening up this area, in establishing licensing and for the further moves it is taking in this legislation. I will refer later to the further steps which need to be taken and upon which this Government is promising to embark.

The range of problems relating to the Atlas site included the leachates from the water seeping through the rubbish that had been there for some years. That has led to an underground stream of polluted water heading in a south-westerly direction from the landfill site. CSIRO studies were done on that in the late 1980s. The studies now required as part of the licensing process have not been as extensive. There have been problems getting monitoring offsite because it is a private operation. There is therefore the matter of legal access to bores on government or private property or property vested in the City of Stirling to gauge the extent of the plume of polluted water and to get some measure of the constituent parts that may prove a problem if residents in that area were to install bores to get water from the plume. That is an ongoing problem created by the lax set of conditions that have applied in the past in relation to landfill in Perth.

Clearly there are major problems with odour, dust and vermin. They have been a huge problem for the residents of Mirrabooka and also to a considerable extent for the residents of Noranda and northern parts of Dianella.

If the buffer zone had been enforced as set down in the guidelines in 1992, Atlas would have had to move the landfill to the very southern part of the site - further removed from the nearest housing - and that would have ameliorated the effect of the landfill on nearby residences.

We were promised - that promise was repeated until even a year ago - that cessation of putrescible waste being dumped on the site would lead to a reduction of, and even an end to, the major odour problems in the area. We have since found that that is not the case. The major smell from the landfill is due to the deposits made some time ago and covered over. Atlas has put a huge effort, and I suspect a very large amount of money, into capping the old landfill to stop the odour. However, because it has been a mixture of both putrescible and inert rubbish - bricks and the like - a large number of spaces exist under the ground. The gas odour can move laterally through the site and come out in another place. Because of the very nature of landfill and capping, fissures and cracks appear and the odour can come through. Atlas has been very proactive in the past few months in capping extensively to seal off the various areas where the smell has been escaping.

That activity has occurred because of the consultation that has been undertaken through the Department of Environmental Protection at the initiative and with the full support of the Government. For that it can take considerable credit. There was a total standoff between Atlas, as the manager of the site, and the local residents. The local residents would ring Atlas and the department and complain when the odour became extremely nauseating - it became impossible to live with. DEP officers would be there day and night trying to get Atlas to take various actions to ameliorate the effect on the surrounding suburbs. In addition to the smell, rubbish and dust were being blown around and there was noise from vehicles operating in the early hours of the morning and late at night.

Through the DEP, the Government convinced Atlas and the local people to get together to try to thrash out the problems. The local people formed the Mirrabooka Action Group, which was very active, particularly during the election campaign. Full credit must be given to the large number of people involved both for putting political pressure on the major parties to make their position clear before the election and following the election for their involvement in the community consultative group.

While it is dangerous to mention names, because I must draw the line in terms of people I can mention, I will give special recognition to a number of key people who have played a very important role in the management of the site and in improving the situation for local residents. Hugh Cahill has done a mighty job in leading that group and as spokesperson. He has been a thorn in the side of the Government and at times myself in urging us to do ever better and to ensure that the issues were tackled. He has a number of lieutenants, including Greg Griffin, Peter Simmons and Anna Pullella, who have been actively involved for some considerable time in a whole range of meetings of the action group and in the community consultative group meetings convened by the department. I have put myself in

a difficult situation because I could name another dozen people who have done more than express a passing interest - they have attended numerous meetings, written letters and lobbied members of Parliament, and have continued to raise the concerns of local residents. Through dint of their hard work that quite considerable group of people has done a huge job to have the matters addressed.

When that consultative group started out it was very angry. Like me, the member for Ballajura has attended many of those meetings. She can attest to the very heated scenes that took place in those meetings. However, they have got to a stage where I believe they are proving to be quite productive. More than a little thanks is due to Cameron Schuster and Noel Davies, who have a key responsibility in the Department of Environmental Protection for this area. Their patience was almost unending when trying to listen to people and hear them out, and after people had expressed their anger and concern, to come to some workable situation so that the real issues were addressed. That group continues to meet and has played a very active role in putting forward proposals for the licence for the landfill site. The Minister may correct me if I am wrong, but I think it was the first landfill site in metropolitan Perth to be licensed under the legislation. The group was involved right from the start in drawing up the criteria for that licence. By its doing so we have become aware of some difficulties with the legislation. We need to see changes to the legislation to give the licence the necessary teeth and strength to ensure that it is enforceable. In the Minister's second reading speech she said that remaining matters would be addressed in a second amendment. She mentioned licences and ground breaking legislation addressing the administration of waste management. We will be waiting to see that legislation come forward, hopefully in early 1998, so that those areas can be addressed.

The licensing of the site has also been concerned with the issue of the biodigester, which is being built by Atlas Group Ltd on that site. The biodigester means that the domestic household rubbish from the City of Stirling will be going to that site. However, as I read the legislation, it will not be attracting the levy because the rubbish is not going to landfill. The rubbish will go into the biodigester and come out the other end in a form which will be useable as a low level fertilizer or at least as a soil conditioner. That is certainly a very bold proposal by Atlas because to my knowledge no other organisation anywhere in the world has been able to put together a plant which will do what this plant will do in anywhere near the volumes that it will process.

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

Mr KOBELKE: What is so special about the Atlas biodigester is that it will take unsorted domestic waste. In many places in the world where there is sorting at source, certain parts of the waste stream can be put into a biodigester. However, Atlas will take a full mix of domestic waste and put it through a front sorting process which will remove aluminium cans, glass, plastics and a number of the nasties, such as batteries. The remaining putrescible waste will go into a digester which will produce gas to run generators, either for local industrial purposes or to go into the Western Power grid, and then produce in pellet form a product which will be useable as a form of fertiliser. That is a very exciting project. It has been very costly to Atlas. People in Western Australia are generally very supportive of it and hope that it will succeed. It is a mammoth undertaking, given that no other company anywhere in the world has been able to establish a plant of this size, capable of taking such a wide ranging waste stream and converting it.

I understand that the commissioning of the plant has been held up because of the need to have some parts or equipment brought in from overseas. The plant is in large measure constructed. The upfront sorting is being tested. If Atlas can get that upfront sorting working, it will have an incredibly valuable amount of intellectual property, given that no-one else in the world has been able to do it. It is likely that Atlas will have a world market for its technology. We wish Atlas well in this bold adventure which we hope will prove successful.

The plant also requires licensing under the Environmental Protection Act. The consultative committee with the members of the Mirrabooka action group has been involved with the Department of Environmental Protection in putting forward its views on the requirements of the licence. It has been a very open and productive process. At the end of the day the licensing will be a matter between Atlas and the DEP. However, the level of community consultation, through which people have put forward their views and they can see the DEP struggling to establish the highest possible standards, is helping to give confidence to the local community. As I have indicated, to put those standards in place and fully enforce them so that they will work requires the further amendments foreshadowed by the Minister.

It is in a difficult situation. It involves a private company operating in a situation such as this, where it got into the field and started contracting to do the work prior to having to meet those standards. On the basis of the company's rights at law, we have a process of slowly refining the requirements and getting the company to come up to the standards. It would not be workable or acceptable to place on any company the burden that it goes from operating at one level overnight to operating at a totally different level of environmental standards. It would not be possible because the company would have to develop the technology and techniques to be able to move to the higher standard. Without that one would simply close it down. One could not say to a major metropolitan council, such as the City of Stirling, "You have no longer anywhere to send your waste." We need to ensure that the practicalities are met,

but we know that we cannot continue to operate as we did in the past. Therefore, these higher standards must be put in place and companies given the time and the assistance to move to them. This Government has certainly been doing that. We need to ensure that companies move along, deadlines are met and standards enforced.

I will make some specific comments on the two Bills. The amount of the levy which is to be imposed on environmentally protected landfills is to be set by regulation. The Government has already clearly indicated that the levy will be $3 per tonne for a putrescible site and $1 per tonne for inert waste. If inert waste goes to a putrescible site it will attract the $3 a tonne levy as well. The amendment to section 110E indicates that if the levy is not paid by the due date there is a penalty of 20 per cent per annum, which is certainly quite hefty. That would be a considerable incentive to ensure that companies pay by the due date.

New section 110G contains a penalty for a person "who, by any wilful act, default or neglect, or by any fraud, art or contrivance whatever, evades or attempts to evade payment of all or any amount of the levy commits an offence". That penalty is $5 000 and treble the amount evaded or attempted to be evaded. That would catch someone who is licensed to operate a landfill site and fails to meet the requirements of the levy. Will the Minister indicate by way of interjection whether it would also catch an unlicensed operator who simply broke the pollution controls and dumped illegally?

Mrs Edwardes: No, it does not. Other provisions deal with that.

Mr KOBELKE: The moneys to be credited to a fund include the levies paid, any amount of penalty under proposed section 110E, any income derived from investments and other moneys lawfully payable to the credit of the fund. However, it does not include penalties payable under proposed section 110G. I assume proposed section 110G will be taken as the general penalties which would be payable to the consolidated fund rather than to the waste management fund. Will the Minister confirm that?

Mrs Edwardes: I will get clarification on that. It is a matter of principle. With penalties we do not want fines going into and being supportive of a system. The fact it goes into the consolidated fund means that the major focus is on the collection of fines.

Mr KOBELKE: I accept that, but people who want the maximum income -

Mrs Edwardes: I will get further clarification.

Mr KOBELKE: I draw members' attention to proposed section 110H(5) which reads -

> Moneys held in the Fund may be paid by the Minister to a person or body to conduct a programme relating to the management, reduction, reuse, recycling, monitoring or measurement of waste promoted by that person or body.

It has a wide ambit and the Minister can use the funds for a range of investigations or consultations which will assist in improving the management of waste. It is a good thing, but it is so wide-ranging that we must ensure it is properly managed. The reporting provisions of the legislation make it sufficiently accountable. It has been covered in the drafting, but it is something we must watch.

My final point is that, although various levies can be set by regulation for the class of waste and particular sites, it will come down to policing to make sure that the waste fits the correct category. Following the issuing of the new licence to the Atlas site in Mirrabooka there were problems with ensuring that the waste that was dumped was of the right class. When the site was closed to putrescible waste, large quantities of green waste was still going to that site. It was a management issue in the changeover.

If people are required to pay to deposit their rubbish there will be an opportunity for some operators delivering material to landfill sites to camouflage some of the waste to put it into a lower category. It will mean a higher level of management. The rules must be enforced. One of the problems with the Department of Environmental Protection is that it has few staff to carry out the level of enforcement that will be required. When it comes to the collection of a large amount of money the Government will have a greater interest to ensure that policing is strict, particularly if there is evidence of people trying to rort the system by changing the classification of waste or going to other sites to avoid the levy for that classification of waste. The DEP will need to increase the level of inspection. The fund provides for money to be expended on the administration of the fund. I assume the terminology used for the administration of the fund relates to the policing of the landfill sites which further relates to the collection of the fund.

The Minister may be able to advise whether this issue has been thought through and there is some indication of the increase in the relevant section of the department to ensure adequate policing of landfill sites for both the fulfilment of the major purposes of the licensing and to ensure that the levies paid under this Bill will be properly designated. People should be prevented from reclassifying the waste to put it into a lower levy category.

The Opposition supports the measures proposed in the legislation. It is a good step in what is a long process of improving the disposal of waste in metropolitan Perth and it supports the Government and looks forward to further moves promised by the Minister to continue that process in 1998.

MRS EDWARDES (Kingsley - Minister for the Environment) [10.16 pm]: First, I will respond to the member for Nollamara's last comment. The administration of the fund does not extend to policing. However, I take on board the member's comments that there may be a likelihood of people not doing the right thing.

Mr Kobelke: Under proposed section 110H(5) there may be a head of power. Moneys from the fund can be spent on monitoring and measuring of waste.

Mrs EDWARDES: My advice is that it does not extend to policing, but the expenditure of funds is subject to advice from the advisory council. As the member indicated there will be full openness in reporting.

I thank members opposite for their comments and support of the legislation. It is important that an effort be made to reduce the level of waste in Western Australia by half. This State is behind the rest of Australia. While it is in front in recycling newspaper it has a long way to go in other areas. Currently we are at about 19 per cent and with the opening of the new demolition and waste site in Cockburn it will bring it up to 28 per cent. A lot more can be done by the operators in the industry in the area of commercial and domestic waste.

Domestic waste is about one-third of the total waste. The rest of the waste produced in Western Australia is commercial and industrial waste. While local councils have a major role to play in waste management, it is a minor role in terms of the scheme of things.

Industry is starting to become responsive to the view of not only trying to minimise the waste they produce, but also how they can recycle it. I am encouraged by what some industries are doing. At a national level some industries are coming together to look at better ways of packaging. Industry responses to waste minimisation, reuse and recycling will be discussed at the next ministerial council meeting in December.

The member for Maylands referred to the Ramsay review. Many of the recommendations of that report have been implemented without legislative amendment, others have been addressed in this Bill and others will be addressed in the second major Bill. If the member wants further information on how the recommendations have been implemented without legislative amendment I will provide her with the details.

The member for Maylands raised a concern about the defences of due diligence and all reasonable precautions. The points she raised are appropriate about where we will go in respect of that defence. We can pick up on many of the precedents from around the world, rather than the off-the-cuff remark that people will make up stories. We have an opportunity in common law. Amended section 74 will be further reviewed in the preparation and drafting of the second Bill. Although it has been included in this Bill while we make major amendments to the penalties and the offences, amended section 74 will be subject to further review in the drafting of the second Bill. We will keep the member informed about that.

The member also referred to New South Wales as being the only other State which has the defence of due diligence. My advice is that it is defined inadequately and that has caused some of the problems that State faced in this matter. We believe due diligence should be related to the industry's best practice, as it is in Canada, and we should not simply have an environmental management system which may prove to be inadequate. We have included both reasonable precautions and due diligence because if they were not included, both defences would apply anyway to discharge offences under amended section 71. It removes the uncertainty of proving whether discharge has occurred.

Concerns about proposed section 110C were raised by the members for Maylands and Rockingham. They questioned whether local councils would have to pay a bond to the chief executive officer. This provision is primarily included in case there may be some doubt about the proper collection and, therefore, the passing on of that levy. It is highly unlikely to apply to local councils. It is more likely that it would apply to private operators, particularly those dealing with inert landfills. I realise that the member for Rockingham thought it should be deleted or put into an exemption clause in terms of local councils.

It is highly unlikely that it will ever apply to councils because they are already accountable and a number of procedures are in place which are open and transparent. In the future we will use private operators more and more. Many of the local councils are looking at this issue at the moment. They are linking together and discussing what would happen if there were satellite cities.

I am not supportive of removing this clause. We would be highly criticised if we were to start to think of exemptions and the removal of that clause. A private landfill operator might go bankrupt with no bond being in place. The person who went bankrupt may even have paid the levy, but it was not passed on to the fund for appropriate use for which it has been established. There may have been an indication that we should have been aware of the private

operator's financial situation, but no mechanisms were in place to cover the situation. By comparison, other members of the community may have paid the levy. Many of the details of the application of the levy have not been identified in the Bills. That concern is appropriate because much of the detail should come within the regulations. A strong consultation process will be put in place during the preparation of those regulations.

The Western Australian Municipal Association will be a key stakeholder in that extensive consultation process. Local government is represented on that advisory council. Currently it has three representatives, who will be retained. The changes have already been put in place in respect of the change in membership and include an increase in the number of representatives from the community. The council will also comprise industry representatives. As I indicated earlier, it is a major stakeholder in this legislation, as a producer of waste.

The status and membership of that advisory council will be addressed in the second Bill. It will be part of the consultation process in the development of that Bill. The advisory council will remain as it is at present. We have already expanded the membership to include community representation, and local councils will continue to recommend the people who will be their representatives on that body.

The member for Rockingham also referred to the administrative costs of the levy collections. Although it has not been raised with me by the Western Australian Municipal Association, other than it has said that it is always concerned when a cross-transfer is proposed, the State is to help the councils manage most of the urban landfills in enabling the reduction of waste across the board. They stand to benefit and gain most by the life of those landfill sites actually being extended, and that is where the cost factor comes into it.

Comments were made about proposed section 110G which deals with evasion of a levy. The levy is payable only by the holder of the licence, and it is covered in the levy Bill. Illegal dumping by unscrupulous operators is dealt with as an entirely separate issue. Getting back to the use of the funds, I have indicated that it will go into a separate trust fund. Objectives have been put into the legislation. All members will be aware of the draft state waste reduction recycling policy which was open for public comment to 31 October this year. That involved a number of areas of activity to which the fund will be put. Those activities include public education and promotion, support for municipal recycling and recycling in rural and remote areas, waste classification and information service, market development for selected recycled products, provision of waste recycling reduction infrastructure in selected situations, and support for a clean-up program.

The urban landfill levy will apply in the metropolitan area only to licensed landfills, and that is for a very good reason. In rural and remote Western Australia very limited recycling opportunities are available. The funds from the levy are, in part, to be targeted to assist appropriate services to be established within those areas. That does not necessarily mean kerbside recycling in every town. It is there to help meet the environmental objectives related to resource conservation.

I reiterate: The funds will go to those objectives which will be published. They are identified as activities, not specific programs. They will not be for ongoing DEP operations.

The member for Maylands asked what would be the amount of the levy and how would any increases be determined. That has not been considered because we are not looking at any increases for the term of this Government. I have made that very clear publicly. The Government wants to get the fund working. To be able to reduce the amount going into the fund would be a great economic achievement. That would mean that we were reducing waste as we intend.

The member for Maylands asked how that would be achieved. Part of the education process will help that. However, because of the landfill levy we already see industry, commercial operators, local councils and householders giving greater thought to what they can do to reduce their waste; that is, in order not to pay the levy. I would be very happy if part of their focus was to consider their waste management in a better light so that they do not pay quite so much to the levy.

How the levy will be determined will be dealt with in the regulation and a number of options will be available. The many landfill sites and local councils vary. We must also pick up commercial and industrial waste. We will be ensuring that under the regulations a number of options will be available to deal with the levy.

I appreciate the concerns the member has raised about Waste Management (WA) and it has been raised with me by the Conservation Council of Western Australia as a concern. The matter cannot be dealt with in this Bill at this time because we are talking about something which is more a whole-of-government issue. I have referred it to the Cabinet subcommittee for machinery of government.

We have made every effort to overcome the perception of a conflict of interest. We have established the statutory body of Waste Management (WA). The proposed arrangements ensure that the management of the State's most

dangerous waste such as that disposed of at Mt Walton are supervised and monitored by the independently created Environmental Protection Authority with assistance from other government regulators and it comes through the Minister so it is separated from the Department of Environmental Protection which is the regulator. However, I know what the member means regarding Chinese walls and how that can be properly dealt with. We believe we have taken every single possible precaution to provide assurances to the community that it is dealt with independently. Nonetheless, I appreciate the member's concerns and have therefore asked for the matter to be more formally considered through the machinery of government so that it can be examined in a much broader sense than it can be here.

The member for Fremantle raised concerns about the south west region. He will be aware that we have in place monitoring stations in both Bunbury and Busselton. That will give us much better data on what is occurring in the south west region. The regulations do not apply only to the metropolitan area. They will also apply throughout the State. Valleys in which smoke is seen wafting as a result of pot belly stoves will be affected because regulations will apply throughout. One of the issues in the south west region which will be addressed through the 25 per cent moisture content provision is the tendency for many people to burn green mill ends. I am advised that happens regularly. The regulations will create a major issue for those individuals. They will not be able to purchase that freshly milled green timber because it will be unlikely to meet the 25 per cent moisture content restriction.

The member for Nollamara referred to the Atlas site. I was pleased to learn that the committee involved with that area is working particularly well and effectively. Again, in any of these areas that community committee must be fully informed on the issues. That often means that the community concerns are diluted so that people know what is going on; therefore their concerns are diminished.

I thank members opposite for their comments and their support of the Bill. It is only the first of the Bills to amend the Environmental Protection Act. Although it provides fairly major changes in terms of penalties, the introduction of the landfill levy, and regulations regarding wood heaters and green wood, I hope the major amendments will be introduced into this Parliament next year. The legislation is still undergoing extensive consultation. We hope it will pick up some of the concerns raised here. The information will be able to be gleaned from the regulations which I have indicated will be subject to extensive consultation, particularly by the Western Australian Municipal Association as a major stakeholder in this area.

Question put and passed.

Bill read a second time.

Committee

The Acting Chairman of Committees (Mr Sweetman) in the Chair; Mrs Edwardes (Minister for the Environment) in charge of the Bill.

Clauses 1 to 8 put and passed.

Clause 9: Section 74 amended -

Dr EDWARDS: I move -

Page 9, line 6 - To insert after "Tier 1" the words "or Tier 2".

The impact of the amendment would be to provide a due diligence defence for tier 2 offences. At the top range, tier 2 offences attract a penalty almost as great as tier 1 offences. When there is a difference between tiers, such an argument is made. However, the Opposition believes that the size of the penalties that can be attracted under tier 2 offences are enough to give them the defence of due diligence, as happens with tier 1 offences.

We note the point by the Minister that she will make further changes to section 74 when the next amendment Bill is introduced. I also note her comments about the situation under New South Wales and Canadian law, particularly that it needs more than the adoption of an environmental management system; it should move towards best practice. We would be considering the Canadian provision under which that defence is accepted by the courts rather than that in New South Wales where due diligence is inadequately defined and relates only to the adoption of the environmental management system. Having accepted all the valid points made by the Minister, we believe the penalties have been increased dramatically, and that the top end of tier 2 also allows for dramatic penalties.

Mrs EDWARDES: The Government does not support the amendment, primarily because that defence for tier 2 offences will be looked at in the development of the second Bill. The matter was raised in some submissions, but when dealing with criminal penalties and offences, we need to consider the relationship of the defences to the Criminal Code, and the meaning of the reference to section 58 in section 74(1). This is not simply a matter of

extending the defence to tier 2. We will be looking at it in much greater detail, in conjunction with consideration of defences under the Criminal Code, leading up to the introduction of the second amendment Bill next year.

Dr Edwards: When will that Bill be introduced?

Mrs EDWARDES: We hope to do that by the end of next year. It is a major Bill. On the one aspect of contaminated sites, there will be major implications of a legal nature apart from the restructuring of many aspects of the operation of the Department of Environmental Protection, particularly the role of the appeals convenor, and how it will relate to contaminated sites - not the scientific base but legal issues dealing with proportionality and the like. Key issues must be worked through, and that is an ongoing feature of our extensive consultation process. We hope to introduce that legislation by the end of next year.

Amendment put and negatived.

Clause put and passed.

Clauses 10 to 12 put and passed.

Clause 13: Sections 92A, 92B, 92C, 92D, 92E, 92F, 92G and 92H inserted -

Dr EDWARDS: Clause 13 covers the powers of the inspector, and the seizure of property. Proposed new section 92H relates to compensation. What indemnity does the department have in the event that it is proved that a seizure was wrong or not carried out properly, and compensation flows? For example, an inspector may seize a piece of equipment but later it may be discovered that he should not have seized the equipment because it was outside his powers.

Mrs EDWARDES: Section 121 of the Act provides a general indemnity for persons such as inspectors or authorised officers.

Clause put and passed.

Clauses 14 to 19 put and passed.

Clause 20: Part VIIA inserted -

Dr EDWARDS: I move -

> Page 44, line 16 - To insert after the words "Act 1997" the following -
>
> > relating solely to waste generated in metropolitan areas and waste deposited in metropolitan landfills

The amendment seeks to amend the definition of levy so that it applies only to metropolitan waste in metropolitan landfills. The discussion paper indicates that the levy does not apply to non-metropolitan waste in non-metropolitan landfills. That is an important point. I was a member of the Select Committee on Waste Management, and it would be an unfair impost, particularly on small country towns, to pay the levy when people have few alternative options. In some areas in the south west it is so expensive to transport recycled goods that it is not done.

Until councils find a better way to do that, the impost of a levy would penalise them. I understand from the briefings by the officers of the department that there is no intent to impose a levy otherwise, but that is not clear in the Bill. We support the concerns raised, and that is the reason for our amendment.

Mrs EDWARDES: The levy will not apply to non-metropolitan waste being sent to non-metropolitan landfill sites. The application of the levy will be covered by the regulations.

Amendment put and a division taken with the following result -

Ayes (16)

Ms Anwyl	Mr Marlborough	Mr Ripper
Mr Brown	Mr McGinty	Mrs Roberts
Dr Edwards	Mr McGowan	Mr Thomas
Mr Graham	Ms McHale	Ms Warnock
Mr Kobelke	Mr Riebeling	Mr Cunningham *(Teller)*
Ms MacTiernan		

Noes (28)

Mr Baker	Dr Hames	Mr Minson
Mr Barnett	Mrs Holmes	Mrs Parker
Mr Barron-Sullivan	Mr House	Mr Pendal
Mr Bloffwitch	Mr Johnson	Mr Trenorden
Mr Board	Mr Kierath	Mr Tubby
Mr Bradshaw	Mr MacLean	Dr Turnbull
Dr Constable	Mr Marshall	Mrs van de Klashorst
Mr Cowan	Mr Masters	Mr Wiese
Mr Day	Mr McNee	Mr Osborne *(Teller)*
Mrs Edwardes		

Pairs

Dr Gallop	Mr Court
Mr Grill	Mr Nicholls
Mr Carpenter	Mr Prince

Amendment thus negatived.

Mr McGOWAN: I move -

Page 45, lines 1 to 14 - To delete the lines.

The provision proposed to be deleted relates to the financial assurance which can be imposed by regulations by the Chief Executive Officer of the Department of Environmental Protection. He is to be given capacity under the Act, at his discretion, to order local authorities and private landfill operators to pay a bond. It is draconian and unfair for a Government to impose that obligation, especially as the regulation can be applied when a person or local government operating a landfill facility may have done nothing wrong.

The application of the provision to local government is opposed by the Western Australian Municipal Association, and I oppose its application to private operators. These people will not be guilty of anything. Individuals who will pay bonds will need to find that money. I cannot find any similar area of government which imposes such draconian provisions for the payment of a bond on nothing more than a suspicion. It demeans local government and private operators in this industry. The Bill imposes fines if people do not make payment. The Opposition opposes this provision, which is over the top.

Mrs EDWARDES: I outlined the reasons for this provision in reply to the second reading debate. This provision will apply when some belief is held that a levy will not be collected properly or it is likely that it will not be passed on. The levy will be in place, and it would be improper if it were not paid. I think community members would be concerned if such an assurance provision were not available in the event that a company were going into bankruptcy or not doing the right thing in the collection or payment of the levy to the fund when everybody else was contributing.

It is highly unlikely that the assurance would apply to local councils. They already have a high level of effective regulation which ensures transparency of operation. It is more likely to apply to private operators, particularly in terms of landfill sites which is potentially a problem area.

The measure is not to be seen as a comment on the current operators. It is a provision dealing with the future. Rightly, the community would be concerned if such a provision were not available to protect an extensive community fund which will be directed to community projects concerned with the reduction of waste in this State.

Amendment put and a division taken with the following result -

Ayes (16)

Ms Anwyl	Mr Marlborough	Mr Ripper
Mr Brown	Mr McGinty	Mrs Roberts
Dr Edwards	Mr McGowan	Mr Thomas
Mr Graham	Ms McHale	Ms Warnock
Mr Kobelke	Mr Riebeling	Mr Cunningham *(Teller)*
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Mr Bradshaw	Mr MacLean	Dr Turnbull
Dr Constable	Mr Marshall	Mrs van de Klashorst
Mr Cowan	Mr Masters	Mr Wiese
Mr Day	Mr McNee	Mr Osborne *(Teller)*
Mrs Edwardes		

Pairs

Dr Gallop	Mr Court
Mr Grill	Mr Nicholls
Mr Carpenter	Mr Prince

Amendment thus negatived.

Clause put and passed.

Clause 21 put and passed.

Clause 22: Part VIIB inserted -

Dr EDWARDS: I put on the record the Opposition's concern that Waste Management (WA) will consist solely of the chief executive officer. In many ways we oppose the part of the clause that makes Waste Management (WA) consist of the chief executive officer. However, we have listened to what the Minister says and acknowledge that the issue has been referred to a Cabinet subcommittee. We will watch the issue closely. We are reluctant to try to delay the whole clause because we would be throwing out the baby with the bathwater and we do not want to do that. Equally, our concerns are serious.

Clause put and passed.

Clauses 23 to 38 put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill reported, without amendment.

Recommittal

On motion by Mrs Edwardes (Minister for the Environment), resolved -

That the Bill be recommitted for the further consideration of clause 20.

Committee

The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mrs Edwardes (Minister for the Environment) in charge of the Bill.

Clause 20: Part VIIA inserted -

Dr EDWARDS: I move -

Page 49, after line 19 - To insert the following new section -

> **110J.** The Minister shall carry out a review of the operation and effectiveness of this Part as soon as practicable after the expiry of three years from the coming into operation of section 20 of the Environmental Protection Amendment Bill 1997 and cause a report based on the review to be prepared and laid before each House of Parliament as soon as practicable after the review is completed.

The effect of this amendment is to ensure that three years after the levy has been imposed there is a review of both the operation and the effectiveness of the levy. This is a very important issue. The aims of the levy are laudable.

We must have it properly validated to ensure it is working. Three years is a reasonable period. It is long enough for it to have been in place to get an idea of its impact, but not so long that changes cannot be made if it is not having the desired impact. I thank the Minister for agreeing to this amendment and commend it to the Chamber.

Mrs EDWARDES: This was always something the Government would have done. Therefore, I was pleased the member opposite moved the amendment because it is appropriate. It is something new for this State. It is important we know how it is operating and, in particular, that that information is made available publicly.

Amendment put and passed.

Clause, as amended, put and passed.

Report

Bill again reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mrs Edwardes (Minister for the Environment), and transmitted to the Council.

ADJOURNMENT OF THE HOUSE - ORDINARY

MR BARNETT (Cottesloe - Leader of the House) [11.10 pm]: I move -

That the House do now adjourn.

I inform members that the House will not sit tomorrow night.

Question put and passed.

House adjourned at 11.11 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

RAILWAYS - WESTRAIL

Vending Machines

1721. Ms MacTIERNAN to the Minister representing the Minister for Transport:

Why is it that Westrail vending machines cannot accept notes or give change even though the technology to do so is clearly available and in use in the City of Perth parking stations?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

At the time of the purchase of the equipment that was available, none had the facilities to change notes, only coin. This was the standard equipment that was being used throughout Europe and Germany. Westrail has changed machines placed at Perth, Midland and Armadale stations that can issue change for notes and coin. With the 119 Ticket Vending Machines positioned over the network the volume and value of cash that each machine would need to contain would be considerable. In addition to this, due to many of the stations not being attended, the prospect of theft would be high.

GOVERNMENT INSTRUMENTALITIES - ANNUAL REPORTS

Costs

1724. Mr BROWN to the Minister for Resources Development; Energy; Education:

(1) For each department or agency under the Minister's control, what was the cost of producing the 1995-96 annual report, including -

  (a) artwork;
  (b) publication;
  (c) distribution?

(2) How do the costs for the 1995-96 annual report compare with the costs associated with the 1994-95 annual report?

(3) Was the 1995-96 annual report produced wholly within the department or agency?

(4) If not -

  (a) what services were provided by contractors;
  (b) at what cost?

(5) Who printed the 1995-96 annual report?

(6) How many copies of the 1995-96 annual report were printed?

(7) To whom was the 1995-96 annual report distributed?

(8) Was environmentally-friendly or recycled material used in the production of the document?

Mr BARNETT replied:

AlintaGas

(1)
(a)	artwork/design	$8,605
(b)	publication/printing	$12,892
(c)	distribution	$2,939.89

(2) The cost of the 1995-96 annual report was significantly less than the cost of the 1994/95 annual report.

(3) No.

(4) (a) photography, editing assistance, design, negative preparation work, printing and distribution.
(b) $34,077.89

(5) Muhlings Pty Ltd.

(6) 2,500 copies.

(7) The annual report is distributed to a list of selected stakeholders which includes corporate customers, financial institutes, other gas authorities, local government, government departments, major suppliers, general media, libraries and nominated organisations.

(8) Yes.

Office of Energy

(1) (a) Cost of artwork - $1,834
(b) Cost of publication - $3,945
(c) Cost of distribution - $1,000

(2) 1995/96 - $6,779
1994/95 - $7,225

(3) No.

(4) Optima Press - Printing $3,945
Design Ethic - Design Preparation $1,834

(5) Optima Press.

(6) 1,500.

(7) Parliamentarians, agencies of Government, and relevant members of the public including energy industry representatives.

(8) Not specifically identified.

Department of Resources Development

(1) (a) Nil - in-house.
(b) $21,271.
(c) Distribution costs are not readily identifiable, but postage of the bulk mail-out was approximately $1,500 (this figure does not include requests attended to following bulk mail-out).

(2) 1994/95 Annual Report (publishing only) $18,409.

(3) Wholly in-house (except for printing and prepress work).

(4) Not applicable.

(5) Picton Press.

(6) 2,500.

(7) The bulk mailing list comprises all members of State Parliament, all Western Australian Federal politicians, State Government Departments and Agencies and their overseas offices, a broad selection of resource industry and related companies and industry organisations, plus sundry targeted or interested individuals. In addition, copies are made available throughout the year to interested parties on request, to overseas visitors and delegations, and distributed at exhibitions, seminars and conferences attended or sponsored by the Department.

(8) Their paper stock used for the report had no recycled content, but was totally chlorine free.

Western Power

(1) (a)-(b) $36,090
(c) Not attainable. Distributed through the normal Western Power mail system using standard envelopes.

(2) The total cost of the 1995-96 annual report was 16% less than the total cost of the 1994-95 report.

(3) No.

(4) (a) Printing provided by Advance Press, artwork by The Globe Ad Company.
(b) $36,090.

(5) Advance Press.

(6) 1994-95 - 3,500 copies, 1995-96 - 4,000 copies.

(7) To key stakeholders in Western Australia and to parties around Australia which had requested copies.

(8) Both recycled and environmentally friendly paper was used in the 1995-96 report and environmentally friendly paper was used in the 1994-95 report.

Education Department of Western Australia

(1) (a) Design: $7141
(b) Printing: $6515
(c) Distribution: $262

(2) 1994-95: $16 239
1995-96: $13 918 ($2321 less)

(3) No.

(4) (a) Design, printing and distribution.
(b) $13 918.

(5) Lamb Printers.

(6) 1200.

(7) Parliament, government schools, Education Department senior personnel, Library and Information Service of WA, and around 100 organisations including government departments and agencies, libraries and universities.

(8) Yes, totally chlorine free.

Department of Education Services (formerly known as Education Policy and Coordination Bureau (EPACB))

(1) (a) Nil.
(b) $185.
(c) 200 copies distributed through internal courier and Australia Post.

(2) The 1995-96 Annual Report was produced on the same basis as the 1994-95 Annual Report and therefore the costs are comparable.

(3) Apart from photocopying of front covers, the report was produced within the Education Policy and Coordination Bureau.

(4) (a) The front covers were sent out to be photocopied because the thickness of the paper could not be photocopied within the Bureau.
(b) $185.00

(5) Education Policy and Coordination Bureau.

(6) 250 copies.

(7) Government departments, universities and education institutions in Western Australia and Australia.

(8) Yes, environmentally friendly material was used, but not recycled material.

Western Australian Office of Non-Government Education

(1) 1995/96

(a) $4050
(b) $3540
(c) $840 estimated

(2) 1994/95 - $9501
1995/96 - $7590 ($1911 less)

(3) No.

(4) (a) Graphic design, artwork, publication (printing).
(b) $7590.

(5) Advance Press.

(6) 1000 copies.

(7) Fulfilment of statutory obligations (for example, Minister for Education, Parliament and Parliamentary Library, Auditor-General); principal customers of the department (that is, all non-government school principals, all chairs of non-government school boards and councils); selected government agencies and non-government education agencies in Western Australia and interstate and individuals with an expressed interest in non-government schooling.

(8) No.

Country High School Hostels Authority

(1) (a) $1440.
(b) $2415.
(c) $150 approximately.

(2) 1994/95 - $6415.
1995/96 - $3885 ($2530 less)

(3) No.

(4) (a) Printing, artwork.
(b) $3885.

(5) Advance Press.

(6) 250 copies.

(7) Selected parliamentarians, government agencies, country shires, Authority residential colleges.

(8) No.

Curriculum Council of Western Australia (formally known as Secondary Education Authority)

(1) (a) Done by Secretariat.
(b) $6800.
(c) $700.

(2) 1994/95 - $3542
1995/96 - $6800 ($3258 more)

(3) Yes, except for the printing.

(4) (a) Printing.
(b) $6800.

(5) Optima Press.

(6) 550.

(7) All secondary schools and educational institutions.

(8) No.

GOVERNMENT INSTRUMENTALITIES - ANNUAL REPORTS

Costs

1730. Mr BROWN to the Minister for Housing; Aboriginal Affairs; Water Resources:

(1) For each department or agency under the Minister's control, what was the cost of producing the 1995-96 annual report, including -

(a) artwork;
(b) publication;
(c) distribution?

(2) How do the costs for the 1995-96 annual report compare with the costs associated with the 1994-95 annual report?

(3) Was the 1995-96 annual report produced wholly within the department or agency?

(4) If not -

(a) what services were provided by contractors;
(b) at what cost?

(5) Who printed the 1995-96 annual report?

(6) How many copies of the 1995-96 annual report were printed?

(7) To whom was the 1995-96 annual report distributed?

(8) Was environmentally-friendly or recycled material used in the production of the document?

Dr HAMES replied:

Office of Water Regulation:

(1) The total cost of producing the Office of Water Regulation's 1995-96 annual report was $28,702, including:

(a) artwork - $11,250
(b) publication - $12,849
(c) distribution - Nil
(d) writing - $4,603 (see (4)(b))

(2) The Office of Water Regulation did not come into existence until 1 January 1996 and therefore did not have a 1994-95 annual report.

(3) The 1995-96 annual report was not produced wholly within the agency as the Office had only been operating for six months and had only appointed four of its complement of 20 staff.

(4) (a) Contractors were employed to write the annual report from information supplied by the staff of the Office.

(b) The cost of writing was $4,603.

(5) The printing of the annual report was handled by Jung Lautrec and Shaw.

(6) 600 copies were printed.

(7) The report was distributed to public and private organisations within WA, interstate and overseas, interest groups, individuals, members of parliament and to Office of Water Regulation staff.

(8) The report was printed using environmentally friendly paper but no recycled material was used in the production of the document.

Water Corporation:

(1) The Water Corporation commenced operations on 1 January 1996. The first Annual Report prepared by the Corporation covered a six month period to 30 June 1996. The costs for this publication, together with costs for the final report of the former Water Authority to 31 December 1995 (also covering a six month period) are shown in the tabled paper. [See paper No 924.].

(2) Costs for the Water Authority's 1994/95 report are also provided in the above tabled paper.

(3) For the first report of the Water Corporation the information gathered, writing and collation of material was largely completed in-house. Contractors were used to undertake specific tasks (detailed at point 4.).

(4) Contractors were employed to undertake some research/writing, photography, design and preparation of visuals, negative preparation and printing, at a total cost of $30,782.

(5) Muhlings Pty Ltd.

(6) 2,500 copies were produced.

(7) The report was distributed to public and private organisations within WA, interstate and overseas, interest groups, individuals, members of parliament and to Water Corporation staff.

(8) No.

Water and Rivers Commission:

(1) $16,424

(2) Not applicable - The Water and Rivers Commission only commenced operation on 1 January 1996.

(3) No.

(4) (a) (i) Desktop publishing
(ii) Photography
(iii) Reprographics
(iv) Printing

(b) (i) $4,339.50
(ii) $814.50
(iii) $2,850.00
(iv) $4,820.00/$3,600.00 (reprint)

(5) Frank Daniels Pty Ltd.

(6) 1,300.

(7) Board members, government agencies, local government, community groups, key stakeholders, libraries, parliamentarians.

(8) Yes.

Swan River Trust:

(1) $2,671.50.

(2) Cost for 1994/95 annual report was $1,300 ($1,100 for printing 500 copies, $200.00 for bromides).

(3) No.

(4) (a) (i) Printing
(ii) Editing
(iii) Data entry

(b) (i) $1,699.00
(ii) $560.00
(iii) $412.50

(5) Terrace Print.

(6) 500.

(7) Trust members, Water and Rivers Commission Board, Parliamentarians - Cabinet and members, Federal MPs, Commission regional offices, interstate, libraries, key individuals, Auditor-General, 30 copies to Bills and Papers Office, two copies to national library.

(8) Yes.

Rural Housing Authority:

(1) (a) $440.00
(b) $899.00
(c) $125.00

(2) The costs of $1,464.00 for 1995-96 compared with $2,690.00 for 1994-95 show a $1,226.00 reduction.

(3) Yes.

(4) Not applicable.

(5) Allwest Print Pty Ltd.

(6) 200 copies.

(7) Various government departments, stakeholders and interest groups.

(8) Yes.

Industrial and Commercial Employees Housing Authority:

(1) (a)-(b) $385.00
(c) Not available.

(2) The costs of $385.00 for 1995-96 compared with $140.00 for 1994-95 show a $245.00 increase.

(3) Yes.

(4) Not applicable.

(5) Fineline Print and Copy Service.

(6) 100 copies.

(7) Various government departments, stakeholders and interest groups.

(8) Yes.

Homeswest:

(1) Cost of producing the 1995/96 Annual Report, including -

(a)	Artwork	$8045.00
(b)	Publication	$8094.02
(c)	Distribution	$0.85c per copy where mailed

(2) Cost for the 1995/96 annual report compared with the 1994/95 annual report -

1995/96		1994/95	
Consultancy	$ 9,661.16	Consultancy	$ 7,000.00
Design/Artwork	$ 8,045.00	Design/Artwork	$15,503.00
Printing	$ 8,094.02	Printing	$ 9,120.00
TOTAL	$25,800.18	TOTAL	$31,623.00

(3) No.

(4) (a) Services provided by contractors -
Consultancy
Design/Artwork
Printing

(b) Cost -

Consultancy	$ 9,661.16
Design/Artwork	$ 8,045.00
Printing	$ 8,094.02
TOTAL	$25,800.18

(5) Whozu Advertising and Marketing.

(6) 1,000.

(7) Government Departments
State and Federal Members of Parliament
Community agencies
Other agencies on request

(8) No.

Government Employees Housing Authority;

(1) (a) $280.00
(b) $17,984
(c) This was arranged in-house.

(2) The cost was higher than the 1994/95 Annual Report. It was produced in colour on quality gloss paper and had a production of 2,000 copies. The 1994/95 Annual Report was produced on plain paper in black and white with a production of 500 copies.

(3) No.

(4) (a) A contractor provided artwork, layout and printing services.
(b) $18,264

(5) Allwest Printers.

(6) 2000.

(7) Client Departments, Members of parliament, State Government agencies and prospective participants in Authority programs.

(8) No.

Aboriginal Affairs:

(1) (a) Nothing. The Department's logo was used.
(b) $13,401
(c) Approximately $600

(2) This information is unavailable because the Department no longer has access to the Government accounting system.

(3) No.

(4) (a) Printing
(b) See answer to 1(b)

(5) Advance Press.

(6) 700 copies.

(7) State and Federal Government departments, libraries and Aboriginal organisations.

(8) No.

POLICE - CHILD ABUSE UNIT

Funding and Staff

1767. Dr CONSTABLE to the Minister for Police:

With respect to the Police Child Abuse Unit, in each of the last five years -

(a) what was the funding for the Unit;
(b) how many cases did the Unit deal with;
(c) how many FTEs staffed the Unit;
(d) what was the case per FTE ratio;
(e) what was the average length of time to -

(i) commence investigation; and
(ii) initiate prosecution proceedings?

Mr DAY replied:

(a) Funding allocated to the Child Abuse Unit:

1992/93	1993/94	1994/95	1995/96	1996/97
Funds not devolved to squad level			$68,000	$60,100

These amounts refer to discretionary funds over and above routine staffing and other costs.

(b) Cases dealt with by the Child Abuse Unit:

1992/93	1993/94	1994/95	1995/96	1996/97
1,749	664	690	786	733

(c) FTEs allocated to the Child Abuse Unit:

1992/93	1993/94	1994/95	1995/96	1996/97
19	19	19	20	22

(In addition, 60 female officers have received training to assist in the interviewing of children).

(d) Case per FTE ratio:

1992/93	1993/94	1994/95	1995/96	1996/97
117	44	46	49	43

(e) (i)-(ii) Each complaint is prioritised as follows:
Priority 1 - responded to immediately when:
- a child is in immediate danger of being further abused by the alleged perpetrator;
- other children are in immediate danger of being further abused by the alleged perpetrator;
- the alleged perpetrator is a person in authority;
- a child is receiving medical treatment or has died as the result of confirmed or suspected non accidental injuries.

Priority 2 - responded to within the applicable time frame when:
- a child must be removed from potential danger within a time frame;

- an alleged perpetrator is intending to flee from the State to avoid interview/apprehension.

Priority 3 - responded to upon resources becoming available when:
- a child is in no danger of being subjected to further abuse in the short term or the long term;
- no extenuating circumstances are present giving rise of concern for a child's safety or well being.

Priority 4 - responded to upon resources becoming available when:
- the complaint is historic and made by an adult.

GOVERNMENT INSTRUMENTALITIES - CONTRACTS

Value and Terms

1838. Mr BROWN to the Minister for Police; Emergency Services:

(1) What functions or services has each department or government agency under the Minister's control contracted out since 1993, stating -

(a) the date;
(b) the amount;
(c) the recipient;
(d) whether the recipient was Western Australian, Australian or foreign; and
(e) the term of the contract,

for contracts worth the following amounts -

(i) more than $100 000;
(ii) between $50 000 and $100 000;
(iii) between $10 000 and $50 000;
(iv) between $1 000 and $10 000?

(2) What functions or services are being planned or intended to be contracted out by each department or government agency under the Minister's control during the current term of government, stating -

(a) the approximate date it will take place;
(b) the amount;
(c) the recipient;
(d) whether the recipient is Western Australia, Australian or foreign; and
(e) the term of the contract,

for contracts worth the following amounts -

(i) more than $100 000;
(ii) between $50 000 and $100 000;
(iii) between $10 000 and $50 000;
(iv) between $1 000 and $10 000?

Mr DAY replied:

(1) Procuring services from the private and not-for-profit sector is and has traditionally been part of the routine business of government. In 1995/96, public sector agencies spent an estimated $2.3 billion on many thousands of contracts across an extremely diverse range of goods and services. Unfortunately, the information sought by the member for Bassendean is not readily available and would require considerable resources to collect. I would like to direct the member's attention to those public documents emanating from the State Supply Commission in regard to expenditure on goods and services. Furthermore, I will ensure that the member is provided with a copy of the report on the third annual survey of competitive tendering and contracting in the public sector, which sets out broad information on the level and nature of contract expenditure on services.

The Government is well aware of the potential benefits in the provision of information pertaining to contracts. These data are useful tools in assisting local businesses to identify opportunities to supply to Government as well as providing relevant information to potential subcontractors and subsuppliers to Government contractors.

Work has already commenced on developing systems which will assist in the provision of information relating to the public sector's purchasing and contracting activities. Investigations are proceeding to identify effective ways of publishing such data in electronic form. These measures will also fulfill the Government's commitment to implement the Commission on Government's recommendation 11.

(2) It is not possible to determine the extent of contracting out which will occur during the remainder of the

Government's current term. The report on the third annual survey of competitive tendering and contracting referred to above, however, includes some information on agencies' contracting intentions and the type of services likely to be market tested. In line with the Government's competitive tendering and contracting policies, public sector agencies will continue to progressively review their activities in order to identify potential contracting opportunities with the aim of providing best value-for-money and quality services to the community.

RAILWAYS - WESTRAIL

Track Maintenance - Expenditure

1923. Ms MacTIERNAN to the Minister representing the Minister for Transport:

How much was spent on track maintenance in Westrail in -

(a) 1992-93;
(b) 1993-94;
(c) 1994-95;
(d) 1995-96?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

The following amounts have been expended in maintaining Westrail's railway track infrastructure since 1992/93 to 1996/97 inclusive. In order to provide a meaningful comparison the last financial year has been included as have both capital and operating expenditure over that period.

	1992/93 $k	1993/94 $k	1994/95 $k	1995/96 $k	1996/97 $k
Total Operating	180 034	143 848	113 835	90 311	100 109

* Includes: Northern Suburbs railway and Urban Electrification projects:

During 1995/96 track and infrastructure maintenance was outsourced and expenditure was down for that year due to the time taken for the contractual arrangements to gain momentum.

GOVERNMENT INSTRUMENTALITIES - INDEMNITIES

Nature and Extent of Liability

2033. Mr KOBELKE to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) Have any agencies or departments for which the Deputy Premier is responsible offered any form of indemnity or remain liable under any indemnity?

(2) If any such indemnity has been offered then -

(a) to whom has it been extended;
(b) what is the reason for the indemnity;
(c) what is the maximum potential liability that could be called on through this indemnity?

Mr COWAN replied:

Department of Commerce and Trade

(1) No.

(2) Not applicable.

Small Business Development Corporation

(1) The Small Business Development Corporation has not offered and does not remain liable under any indemnity However, the Small Business Development Corporation administers the Small Business Guarantees Act on behalf of the Minister. Under the Small Business Guarantees Act (1983) the Deputy Premier, being the Minister for the time responsible for the Act, may execute a guarantee for the whole or part of a loan made to the owner of a small business within the terms of the Act. The Minister acts on behalf of the State Government in executing the guarantee.

(2) (a) Small businesses as defined by the Small Business Guarantees Act.

(b) To guarantee to a bank or other lender the whole or part of a loan made by the bank or other lender where (i) the loan has previously been rejected solely because of the insufficiency of the security proposed, and (ii) the loan monies are required for capital expenditure or working capital for the establishment, expansion and diversification of small business.

(c) At 30th June, 1997 the maximum potential liability was $787,000 covering ten outstanding guarantees. The scheme ceased on 31 May 1997.

International Centre for Application of Solar Energy (CASE)

(1)-(2) CASE has granted no indemnities save for normal project commercial guarantees.

Technology Industry Advisory Council (TIAC)

(1) No.

(2) Not applicable.

Gascoyne Development Commission

(1) No.

(2) Not applicable.

Goldfields-Esperance Development Commission

(1) No.

(2) Not applicable.

Great Southern Development Commission

(1) No.

(2) Not applicable.

Kimberley Development Commission

(1) No.

(2) Not applicable.

Mid West Development Commission

(1) No.

(2) Not applicable.

Peel Development Commission

(1) No.

(2) Not applicable.

Pilbara Development Commission

(1) No.

(2) Not applicable.

South West Development Commission

(1) No.

(2) Not applicable.

Wheatbelt Development Commission

(1) No.

(2) Not applicable.

PORTS AND HARBOURS - PORT HEDLAND

Community Attitudes Survey

2097. Mr GRAHAM to the Minister representing the Minister for Transport:

(1) Was a survey conducted into community attitudes to developing a new harbour complex in Port Hedland?

(2) If yes to (1) above -

(a) when was the survey conducted;
(b) who conducted the survey;
(c) what was the cost of the survey;
(d) what was the result of the survey;
(e) what action was taken as a result of the survey;
(f) will the Minister provide a copy of the results of the survey?

Mr OMODEI replied:

(1) Yes.

(2) (a) May 1996

(b) Transport, via a letter drop (questionnaire by the Australian Bureau of Statistics on behalf of the Port Hedland Boat Harbour Steering Committee).

(c) $2380 (printing $680, questionnaire design $500, data analysis $1200).

(d) Response to proposal was generally supportive.

(e) Additional feedback to the proposal was sought at a public meeting in October 1996 in the offices of the Town of Port Hedland.

(f) Yes, please refer to the tabled paper. [See paper No 925.]

MINISTRY OF JUSTICE - INFORMATION AND ANALYSIS SECTION

Substantive Positions

2170. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

(1) How many persons are there currently working in the information and analysis section?

(2) How many of these people have permanent positions with the information and analysis section?

(3) How many substantive positions are there in the information and analysis section?

(4) Who are the occupants of these substantive positions?

(5) What duties are the substantive holders of these positions currently carrying out?

(6) Who is the current manager of the information and analysis section?

(7) Is the current manager the substantive occupant of the position?

(8) If not, who is the substantive holder of the position?

(9) What duties is the substantive occupant currently performing?

(10) What circumstances existed to justify the increase of -

(a) investigations officers;
(b) information and analysis officers?

(11) What year was the intelligence section created as an independent section from the investigations section?

(12) How many substantive positions did the intelligence section hold at the time of the split?

(13) Why was the function of intelligence gathering removed from the spectrum of investigations?

(14) Who authorized the split?

(15) Was the then incumbent Attorney General aware of the restructuring?

(16) Did she approve of this restructure?

(17) Is there any person currently working in information and analysis section who is a redeployee?

(18) Was there any occasion during 1996-97 whereby any public servant, employed by the Ministry of Justice was allowed to go on annual leave and retain a blue plated Government vehicle for the duration of leave?

(19) If yes, why?

(20) Who authorized this use?

(21) Did this cause a shortage of vehicles in any branch/section of the Ministry of Justice?

(22) Does the Ministry of Justice on all occasions when designated Superintendents go on annual leave temporarily suspend that designation and designate another person as Superintendent for the period of leave?

(23) If not, why not?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Four.

(2) None.

(3) Four.

(4)
1. Mr Keith Harwood
2. Mr Ian Porter
3. Mr Ted Warlik
4. Vacant

(5)
1. Mr Keith Harwood (as at 4 November 1997) on Annual Leave
2. Mr Ian Porter (as at 4 November 1997) on Leave
3. Mr Ted Warlik (as at 4 November 1997) on Parental Leave
4. Not applicable.

(6) Mr A D MacNaughton.

(7) Yes.

(8) Not applicable.

(9) Manager of the Information Analysis Section and Internal Investigations Unit.

(10) (a) A restructure of the Ministry of Justice Internal Investigation Unit was made in order to provide support for proactive and reactive strategies to combat drug and death in custody matters within the prison system in addition to general prison investigations. The agreed staffing level is the Manager, six investigators and one administrative support officer.

(b) There has been no increase in staffing levels for the Information Analysis Section. There has been a decrease by abolishing the Manager's position.

(11) 1993.

(12) Four.

(13) The function of intelligence gathering was considered to be a specialised and separate field from investigations.

(14) The previous administration of the Ministry.

(15)-(16) Yes.

(17) No.

(18) If the member can provide more specific details the matter will be investigated.

(19)-(21) Not applicable.

(22) Designation transferred to the person carrying out the position.

(23) Not applicable.

GOVERNMENT INSTRUMENTALITIES - NORTH WEST

Employees and Programs

2183. Mr GRAHAM to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) What departmental staff in departments under the Deputy Premier's control are located in the following towns -

(a) Port Hedland;
(b) South Hedland;
(c) Tom Price;
(d) Paraburdoo;
(e) Telfer;
(f) Marble Bar;
(g) Nullagine;
(h) Karratha;
(i) Halls Creek;
(j) Wiluna;
(k) Dampier;
(l) Roebourne;
(m) Wickham?

(2) What are the classifications of those staff?

(3) What programs are currently being funded in the towns listed in (1) above, in the departments under the Deputy Premier's control?

Mr COWAN replied:

Department of Commerce and Trade

(1) An Aboriginal Tourism Development Officer, at Halls Creek.

(2) Level 4.

(3) The Department of Commerce and Trade's programs are available statewide, including specific programs for small communities. Details of projects funded within the Kimberley, Mid West and Pilbara Regions are available from Commerce and Trade.

Small Business Development Corporation

(1) Nil.

(2) Not applicable.

(3) The Business Enterprise Centre (BEC) network program is currently funded in the following towns -

Port Hedland
Karratha

Each Centre employs a full time manager to facilitate development of new and expanding business and is supported by the Small Business Development Corporation The Regional Enterprise Funding Scheme is a program funded through the Business Enterprise Centres.

Kimberley Development Commission

(1) Nil.

(2) Not applicable.

(3) There are no programs funded specifically for Halls Creek. The Commission has established its program structure on a regional basis.

Pilbara Development Commission

(1) In regard to the towns listed, the Pilbara Development Commission operates in Port Hedland, where the

Chief Executive Officer and three other staff members are located, and also operates in Karratha, where six staff plus an externally funded Aboriginal development position are located.

(2) In regard to staff in the Port Hedland office of the Pilbara Development Commission, the Chief Executive Officer is Level 9, there are two Level 5 officers and one Level 2 officer. In the Karratha office, there is one Level 8 officer, two Level 5 officers, two Level 4 officers, one Level 2 officer, and one externally funded Level 4 position.

(3) The Pilbara Development Commission (PDC) has one program as approved through the Consolidated Fund Budget process, that of Economic and Social Development in the Pilbara Region. Through a consultation process, the PDC has developed an Economic Development Strategy. The Strategy outlines objectives and strategies for economic development in the Pilbara region as a whole. There are nine separate objectives to this strategy , which have been used to formulate the backbone of the PDC's Corporate and Operational plan. These nine objectives have also been used in the Consolidated Fund Budget process as the Commission's key outputs under the program/output group of economic and social development in the Pilbara region. They are:

1. Economic Diversification
2. Aboriginal Economic Development
3. Artificial Impediment Free Environment
4. Housing Normalisation
5. Social Services Provision
6. Regional Promotion
7. Maximise Regional Competitive Advantage
8. Ecologically Sustainable Development
9. Infrastructure Enhancement Co-ordination

Projects are allocated to this program structure depending on the nature of their output. Some of the major projects the Commission is currently involved in are:

- Pilbara/Gascoyne Islands Consultative Committee
- Aboriginal Economic Development
- Construction of the Karijini Interpretive Centre
- Pilbara Price Surveillance

- Pilbara Workshop for Teachers
- Planning for Education Services
- Living in the Region Survey
- Coastal Facilitator
- Pilbara Land Use Strategy
- Water Resources Assessment
- Port Hedland Area Planning Strategy
- Pilbara Infrastructure Project

There are also other minor projects associated with these nine separate outputs/program structure.

Mid West Development Commission

(1) The Mid West Development Commission does not have officers based full time in any of the towns listed. The Commission is a small organisation with limited resources and has a diversity of skill, experience and knowledge. The Commission supports the Mid West community in two ways - by identifying and promoting the introduction of projects and initiatives that facilitate economic development and by responding to requests for assistance from business, industry, local government and community groups in the region. The Mid West Development Commission has a business and community visitation program whereby officers are requested to regularly visit business and local government authorities within the Mid West region. Of the listed towns, Wiluna is the only one that falls in the Mid West. Our records show that in the last 12 months Commission officers have made 21 visits to business and six visits to the local shire council within Wiluna. These figures do not include the many contacts by phone or correspondence on an array of issues. In addition, the Commission has allocated dedicated officers to be the "first point" of contact for local government authorities regarding access to our services. In collaboration with local government authorities the Commission is able to respond to opportunities and jointly address issues impacting on economic development without the high cost and inefficiency of dedicated officers based in areas away from our central office.

(2) Not applicable.

(3) The Commission operates a business and community visitation program as outlined in (1) above. The Commission also has a business retention and expansion program which focuses effort onto existing

business in the region, the aim of this program is to work with existing businesses in the region. The aim of this program is to work with existing businesses to identify the "red flag" issues impacting on business. Research has shown that 2 out of 3 new jobs are created by existing firms. In the delivery of these programs the Commission works closely with the Small Business Development Corporation through the Mid West Business Enterprise Centre and the Department of Commerce and Trade.

COMMITTEES AND BOARDS - MEMBERS

Appointment and Remuneration

2291. Dr CONSTABLE to the Minister representing the Minister for Transport:

(1) With reference to the Minister's answer to question on notice 43 of 1997, who are the current members and chairpersons of the Boards and Committees noted in subparagraphs (b), (c), (e) and (h) of your answer?

(2) When was each member appointed and for what period of time?

(3) How much remuneration is each member paid?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

MetroBus

(1) Chairperson of the Metropolitan Transport Trust - Mr Russell Allen
Deputy Chairperson of the Metropolitan Transport Trust - Ms Eva Skira
Members of the Metropolitan Transport Trust are Messrs Geoff Sherwin and John Carlson.

(2) Mr Russell Allen appointed as Chairperson from 28 November 1996 to 17 November 1998.

Ms Eva Skira appointed as Deputy Chairperson from 28 November 1996 to 17 November 1998.

Mr Geoff Sherwin appointed as Member from 1 November 1996 to 1 October 1998.

Mr John Carlson appointed as Member from 12 February 1996 to 15 January 1998.

(3) Chairperson - $17 100 per annum.
Deputy Chairperson - $11 950 per annum.
Members - $ 6 800 per annum.

Fremantle Port Authority

(1) Ron Aitkenhead, Chairman
Joe McKay, Commissioner
Joe McKay, Deputy Chairman
Ernie Strahan, Commissioner
Russell Allen, Commissioner
Michael O'Callaghan, Commissioner

(2) Ron Aitkenhead appointed as Chairman on 31 December 1996 (for 2 years).
Joe McKay appointed as a Commissioner on 31 December 1996 (for 3 years).

Joe McKay appointed as a Deputy Chairman on 17 October 1997.
Ernie Strahan appointed as a Commissioner on 31 December 1996 (for 2 years).
Russell Allen appointed as a Commissioner on 31 December 1995 (for 3 years).
Michael O'Callaghan appointed as a Commissioner on 31 December 1996 (for 2 years).

(3) Chairman - $12 717 per annum.
Deputy Chairman/Commissioner - $5 400 per annum with an additional $1 440.
Commissioner - $5 400.

Department of Transport

(1) Traffic Board of Western Australia (now the Road Safety Council).

Chairman -	Grant Dorrington
Members -	Mel Hay
	Bryant Stokes
	Gary Hodge
	Peter Waugh
	Neil Jarvis
	Vic Evans
	Richard Stott
	Trevor Clarey

Taxi Industry Board
Chairman - Howard Croxon
Dep Chair - John (Mick) Lee
Members - Des Stanway
Graham Muir
Joanna Ammon
Dick MacDonald

(2) Traffic Board of Western Australia (now the Road Safety Council):

Members of the Road Safety Council were appointed on 11 March 1997 for a period not exceeding 3 years.

Taxi Industry Board:

Chairman - Howard Croxon, appointed August 1996 for two years.
Dep Chair - John (Mick) Lee, appointed February 1996 for 2 years.
Members - Des Stanway, appointed February 1996 for 2 years.
Graham Muir, appointed February 1997 for 2 years.
Joanna Muir, appointed February 1997 for 2 years.
Dick MacDonald, appointed February 1997 for 2 years.

(3) Traffic Board of Western Australia (now the Road Safety Council):
Chairperson - $10 000 per annum.
Members - Nil.

Taxi Industry Board:

Chairperson - $15 000 per annum.
Members - $3 500 per annum.

SMALL BUSINESS - RETAILING

Effect of Employment Uncertainty

2498. Mr BROWN to the Minister for Small Business:

(1) Is the Minister aware of an article that appeared in the *Business News* of 10-23 July 1997 which quoted the Managing Director of the Small Business Development Corporation saying that retailers are also suffering from restraint on household disposable income caused by employment uncertainty?

(2) Have changes to the industrial relations laws and the introduction of workplace agreements has added to employment uncertainty over the last four years?

(3) What steps does the Minister intend to take to try and improve employment security?

Mr COWAN replied:

(1) Yes.

(2) No. From a small business perspective, the option of workplace agreements has provided additional flexibility for the employer-employee relationship.

(3) I will continue to support the development and growth of the Western Australian small business sector which has the potential for considerable employment growth in the future.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2512. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) In each department or agency under the Deputy Premier's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Deputy Premier's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr COWAN replied:

Department of Commerce and Trade

(1) Ten.

(2) The total cost of these advertisements were $34,081.94

(3) In regard to the positions advertised:

(a) five were filled by the person acting in the position;
(b) none were filled by a person from the re-deployment pool; and
(c) none were filled by a person recruited from the advertisement outside the public sector.

(4) Two.

(5) During the 1996 financial year, two women were appointed to senior positions.

Small Business Development Corporation

(1) There were four level seven or above positions advertised outside the public service during the 1996/97 financial year.

(2) The total cost of these advertisements were $3,173.43

(3) (a) one was filled by the person acting in the position;
(b) no positions were filled by a person from the re-deployment pool; and
(c) no positions were filled by a person recruited from the advertisement outside the public sector.

(4)-(5) One.

International Centre for Application of Solar Energy (CASE)

(1) Nil

(2)-(5) Not applicable.

Gascoyne Development Commission

(1) Nil.

(2)-(5) Not applicable .

Goldfields-Esperance Development Commission

(1) One.

(2) The total cost of the advertisement was $6,815.08.

(3) (a) one position was filled by the person acting in the position;
(b) no positions were filled by a person from the re-deployment pool; and
(c) no positions were filled by a person recruited from the advertisement outside the public sector.

(4)-(5) Nil.

Great Southern Development Commission

(1) Nil.

(2)-(5) Not applicable .

Kimberley Development Commission

(1) Nil.

(2)-(5) Not applicable .

Mid West Development Commission

(1) One.

(2) The total cost of the advertisement was $1,015.32.

(3) (a) no positions were filled by the person acting in the position;
(b) no positions were filled by a person from the re-deployment pool; and
(c) no positions were filled by a person recruited from the advertisement outside the public sector.

(4)-(5) Nil.

Peel Development Commission

(1) Nil.

(2)-(5) Not applicable .

Pilbara Development Commission

(1) Nil.

(2)-(5) Not applicable .

South West Development Commission

(1) Nil.

(2)-(5) Not applicable .

Wheatbelt Development Commission

(1) Nil.

(2)-(5) Not applicable .

All Agencies

(6)-(7) Yes, the Government does have a strategy in place to increase the number of women in senior positions. The Government Strategy includes:

(i) A Managing Diversity policy which provides the rationale for creating a work force that reflects the diversity of the customer base, and ensuring contributions from a diverse range of people in key decision making positions.

(ii) A two year plan for women, 1996-98, includes provisions to improve the representation of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2516. Mr BROWN to the Minister for Family and Children's Services; Seniors; Women's Interests:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mrs PARKER replied:

Responses reflect 1996/97 Financial Year.

(1) Family and Children's Services: 2.
Women's Policy Development Office: Nil.

Office of Seniors Interests:

(1) Nil.

(2) $2180.

(3) (a) 2.
(b)-(c) Nil.

(4) Nil.

(5) Family and Children's Services: 1.
Women's Policy Development Office: 3.
Office of Seniors Interests: Nil.

(6) Yes.

(7) The Government has launched the following:

A Managing Diversity policy which provides rationale for creating a work force that reflects the diversity of the customer base and ensuring contributions from a diverse range of people in key decision making positions;

A Two Year Plan for Women 1996-1998, including strategies to improve the representation of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2517. Mr BROWN to the Minister for Labour Relations; Planning; Heritage:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr KIERATH replied:

The following reply is provided for the 1996/97 financial year.

Department of Productivity and Labour Relations

(1) Eleven.

(2) $12,651.

(3) (a) Three of the five positions which were filled substantively were filled by the person acting in the position. Six of the advertised positions were not filled.

(b)-(c) None.

(4)-(5) Two.

WorkSafe Western Australia

(1) None.

(2)-(4) Not applicable.

(5) None.

Commissioner of Workplace Agreements

(1) None.

(2)-(4) Not applicable.

(5) One.

Department of the Registrar, WA Industrial Relations Commission

(1) None.

(2)-(4) Not applicable.

(5) None.

WorkCover Western Australia

(1) None.

(2)-(4) Not applicable.

(5) One.

Ministry for Planning

(1) Ten.

(2) Approximately $7,420.

(3) (a) Four.
(b) None.
(c) Five.

(4)-(5) None.

Office of the Minister for Planning (Planning Appeals)

(1) None.

(2)-(4) Not applicable.

(5) None.

Heritage Council of Western Australia

(1) One.

(2) $2,057.

(3)-(5) None.

East Perth Redevelopment Authority

(1) One.

(2) $1,901.56.

(3) (a) One.
(b)-(c) None.

(4)-(5) None.

Subiaco Redevelopment Authority

(1) None.

(2)-(4) Not applicable.

(5) None.

With regard to parts (6) and (7), I advise as follows:

(6)-(7) The Government has a strategy in place to increase the number of women in senior positions, as follows:

(a) A managing diversity policy which provides the rationale for creating a work force that reflects the diversity of the customer base and ensuring contributions from a diverse range of people in key decision making positions.

(b) A two year plan for women 1996-1998 includes strategies to improve the representation of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2521. Mr BROWN to the Minister for Health:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr PRINCE replied:

	Health Department of WA		Alcohol & Drug Authority	Healthway
(1)	75.		Nil	Nil
(2)	Approximately $60,000.		Nil	Nil
(3)	(a)	25	Not applicable.	Not applicable.
	(b)	Nil		
	(c)	7		
(4)	31		Not applicable.	Not applicable.
(5)	35		No permanent appointments were made to Level 7 and above due to the Authority's services being under review. However, one woman was appointed to an acting Level 8 during 1996/97.	

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which provides the rationale for creating a work force that reflects the diversity of the customer base and ensuring contributions from a diverse range of people in key decision making positions. A two year plan for women 1996-1998 includes strategies to improve the representation for women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2525. Mr BROWN to the Minister representing the Minister for Mines:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996-97 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr BARNETT replied:

(1) Eleven.

(2) Approximately $36 980.

(3) (a) Five.
(b) None.
(c) Four.

(4) None.

(5) One.

(6) Yes.

(7) The Government has launched the following -

A two year plan for women 1996-1998 which includes strategies to improve the representation of women in senior positions. A managing diversity policy which provides the rationale for the creation of a workforce that reflects the diversity of the customer base and ensures contributions from a diverse range of people in key decision making positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2527. Mr BROWN to the Minister representing the Minister for the Arts:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

Ministry for Culture & the Arts (Central Office)

(1) One - the position of Director-General.

(2) $9148.

(3) The position has not yet been filled.

(4) Not applicable.

(5) Nil.

Library & Information Service of WA

(1) Nil.

(2)-(4) Not applicable.

(5) Nil.

Western Australian Museum

(1)-(5) Not applicable.

Art Gallery of Western Australia

(1) One position.

(2) The recruitment was managed by the Public Sector Standards Commission.

(3) The position was filled by a person recruited from the advertisement outside the Public Sector.

(4)-(5) None.

Perth Theatre Trust

(1)-(5) Nil.

Screen West

(1)-(5) Nil.

A response to Questions (6) and (7) from the whole of ministry -

(6) Yes.

(7) This Government has launched the following:

A managing diversity policy which involves creating a work force which accurately reflects the diversity of the customer base and achieving contributions from a diverse range of people to key decision making bodies. A two year plan for women which aims to achieve an increased percentage of women in senior positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2530. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr BRADSHAW replied:

WESTERN AUSTRALIAN TOURISM COMMISSION

(1) 3.

(2) (i) $ 806.70
(ii) $1753.28
(iii) $ 286.83

(3) (a) One.
(b) Nil.
(c) Two.

(4) Nil.

(5) Two.

(6) Yes.

(7) The Government has launched the following -

A two year plan for women 1996-1998 which includes strategies to improve the representation of women in senior positions. A managing diversity policy which provides the rationale for the creation of a work force that reflects the diversity of the customer base and ensures contributions from a diverse range of people in key decision making positions.

ROTTNEST ISLAND AUTHORITY

(1) 1.

(2) $921.96.

(3) (a)-(b) Nil.
(c) Nil - the position was not filled.

(4) Nil.

(5) 1.

(6) Yes.

(7) The Government has launched the following -

A two year plan for women 1996-1998 which includes strategies to improve the representation of women in senior positions. A managing diversity policy which provides the rationale for the creation of a work force that reflects the diversity of the customer base and ensures contributions from a diverse range of people in key decision making positions.

GOVERNMENT INSTRUMENTALITIES - LEVEL 7 POSITIONS AND ABOVE

Advertising - Cost

2532. Mr BROWN to the Parliamentary Secretary to the Minister for Sport and Recreation:

(1) In each department or agency under the Minister's control, how many level 7 positions and above were advertised outside the Public Service in the 1996 financial year?

(2) What was the cost of the advertisements?

(3) How many of the positions so advertised were filled by -

(a) the person acting in the position;
(b) a person from the re-deployment pool;
(c) a person recruited from the advertisement outside the Public Sector?

(4) How many of these positions were filled by women?

(5) In the same financial year, how many women have been appointed to senior positions, level 7 and above, in each of the departments and agencies under the Minister's control?

(6) Does the Government have a strategy in place to increase the number of women in senior positions?

(7) If so, what is that strategy?

Mr MARSHALL replied:

(1) 1.

(2) $2043.52.

(3) (a) 1.
(b)-(c) Nil.

(4)-(5) Nil.

(6) Yes.

(7) The Government has launched the following -

A two year plan for women 1996-1998 which includes strategies to improve the representation of women in senior positions. A managing diversity policy which provides the rationale for the creation of a work force that reflects the diversity of the customer base and ensures contributions from a diverse range of people in key decision making positions.

REGIONAL WESTERN AUSTRALIA - CULTURALLY DIVERSE BACKGROUNDS

Federal Government Funding Cuts - Impact Assessment

2545. Ms WARNOCK to the Minister for Regional Development:

(1) Has the Minister’s department undertaken an impact assessment study of the cut-backs in community funding for culturally and linguistically diverse background groups and organisations in regional areas?

(2) If not, will the Minister immediately instruct his department to undertake this assessment and make the report available for public comment?

Mr COWAN replied:

(1) No.

(2) No, although the process of implementing a Community Service Audit by the Department of Commerce and Trade of all government and government funded services provided in the regions has commenced.

SERVICE STATIONS - INDEPENDENT

Wholesale Price of Petrol - Deregulation

2554. Mr BROWN to the Minister for Commerce and Trade:

(1) Is the Minister aware of the concerns of independent service station proprietors about the Federal Government's intention to de-regulate the wholesale price of petrol?

(2) Is the Minister also aware that some independent service station proprietors believe multi-national companies have established a wholesale pricing policy between the company owned wholesaler or retailer to make it increasingly difficult for independent service stations to financially survive?

(3) Will the Minister make representations to the Federal Government to ensure independent service station proprietors are not disadvantaged by oil industry de-regulation?

(4) Will the Minister make representations to the Federal Government to introduce a law which requires oil companies to sell fuel to retailers 2 or 3 cents below the lowest price such companies are retailing fuel for at their outlets?

(5) If not, why not?

(6) What measures will the Government recommend to prevent large oil companies manipulating fuel prices to drive independent service station operators out of business?

Mr COWAN replied:

(1) I am aware that some independent service station proprietors have expressed some concerns over their ability to negotiate wholesale buying prices on favourable terms when the industry is completely deregulated.

(2) I am not aware of specific allegations to this effect. However, I understand that the Australian Competition and Consumer Commission is monitoring the activities of major oil companies for any indications of anti-competitive conduct, collusive agreements or misuse of market power, particularly in relation to pricing arrangements. I understand the Federal Treasurer has advised the major oil companies, and petrol resellers, that deregulation of the industry will be a gradual process. Full deregulation is not expected until 1998.

The Federal Government has indicated it will require demonstrated commitments from major oil companies to increased competition, and consumer benefits, before it will repeal the Petroleum Retail Marketing Sites Act and the Petroleum Retail Marketing Franchise Act Petroleum products pricing will continue to attract surveillance under the provisions of the Prices Surveillance Act until the Federal Government is satisfied of pro-competitive developments in the market

The Federal Government has also indicated it will require major oil companies to allow open terminal access and price transparency for the purchase of petrol by distributors and retailers.

(3) I have asked the Small Business Development Corporation (SBDC) to continue monitoring the process of deregulation in the industry and to keep me informed of any issues that might adversely impact on small independent petrol resellers. Where such issues are identified, I will make appropriate representations to the Federal Government.

(4) No.

(5) Full deregulation of the oil industry is predicated on principles of free and fair competition, without intervention by Governments in monitoring or setting prices at wholesale levels. Deregulation would not be compatible with legislation designed to set prices that differentiate between buyers on the basis of size and affiliation to major oil companies.

The Federal Government has indicated there will not be complete deregulation, including cessation of price surveillance, until it is satisfied the industry has adopted a pro-competitive stance.

The Australian Competition and Consumer Commission will monitor the market for any indications that major oil companies are engaging in predatory pricing by selling fuel to their outlets below cost or at artificially low margins for the purpose of eliminating competition from independent resellers.

(6) The Federal Government has indicated it will maintain price surveillance until it is satisfied the industry has adopted a pro-competitive stance.

The Australian Competition and Consumer Commission is charged with this responsibility. It will also continue to closely monitor the industry for any indications of anti-competitive price manipulation, with a view to taking actions against offending oil companies for breaches of the Trade Practices Act. If instances of price manipulation are brought to my attention that do not fall within the ACCC's area of responsibility, the Government would consider appropriate recommendations to address the situation.

SMALL BUSINESS DEVELOPMENT CORPORATION - COMPLIANCE COSTS

Reduction - Recommendations

2557. Mr BROWN to the Minister for Small Business:

(1) Since 1 January 1996 has the Small Business Development Corporation made any recommendations or worked with any Government department or agency to implement any process or procedure which would reduce compliance cost on small business?

(2) If so -

(a) what recommendations have been made;

(b) what is the nature of the work that has been carried out by the Small Business Development Corporation with other departments and agencies?

(3) Have compliance costs been reduced since 1 January 1996?

(4) What arrangements have been put in place to reduce such compliance costs?

Mr COWAN replied:

(1) Yes.

(2) (a) The Small Business Development Corporation has made a range of recommendations since January 1996 to a number of government agencies, including: -

(i) Ministry of Fair Trading

- to extend the term of occupational licensing from one to three years;
- to repeal the Hire Purchase Act; and
- to repeal the Painters Registration Act.

(ii) Ministry of Planning

- to amend their Model Scheme Tax on home occupancy licensing by local government to encourage a measure of uniformity.

(iii) Police Department

- to amend the Pawnbrokers and Secondhand Dealers Act to simplify identification requirements and broaden the list of exemptions for very small concerns.

(iv) Australian and New Zealand Food Authority

- to minimise compliance costs for small business in their food hygiene regulations.

(v) - House of Representatives Standing Committee on Legal and Constitutional Affairs into Copyright Royalties.

- to ensure small businesses are not charged unnecessarily for licence fees.

(b) Through the activities of the Regulation Review Panel, a series of Red Tape Forums, and the Government Liaison area of the SBDC, issues are continually identified and acted upon. The SBDC makes regular submissions to legislative review processes on behalf of small business, the most significant of which in recent times has been the Deregulation Task Force. The SBDC, through the Business Information and Licence Centre, works directly with Local, State and Federal Government agencies in disseminating compliance information in a co-ordinated, one-stop shop approach. Research conducted by Price Waterhouse has indicated the centre saves each enquirer an estimated $200 by utilising this single point of contact for business licence requirements. The centre handled more than 15,000 clients in 1996/97.

The SBDC is also preparing for the Western Australian Government to host the next National Small Business Summit, which is a major forum for achieving National, State and Local Government commitment and progress on reducing small business compliance costs.

(3) It is difficult to measure the total compliance costs on small business since January 1996. However, as a result of the recommendations made and the ongoing work of the Small Business Development Corporation, we are making ongoing contributions to a reduction in compliance costs for small business.

(4) In addition to all the information presented above, the SBDC is embarking on a number of major initiatives this financial year to further reduce regulatory compliance for small business. By utilising the latest in computer technology, the SBDC will be developing streamlined approval processes in the areas of food and tourism; developing a single licence for the most commonly requested approvals; and developing a streamlined employer obligations package which will reduce the time and cost of compliance when employing people in Western Australia.

The SBDC will also be working with local government in developing a simple and standardised method of regulation review which will measure the impact of regulation on local business. The SBDC will continue to be a driving force to encourage agencies to acknowledge the compliance costs they are placing on business, and to become committed to reducing that cost - at Local, State and Commonwealth Government levels.

SMALL BUSINESS DEVELOPMENT CORPORATION - PAYROLL TAX

Complaints

2558. Mr BROWN to the Minister for Small Business:

(1) Has the Small Business Development Corporation received any complaints from business on changes to the payroll tax arrangements which now require payroll tax to be based on wages, fringe benefits and superannuation?

(2) Has the Government received any complaints about the new method of assessing payroll tax -

(a) becoming more complicated;
(b) taking more time to calculate?

(3) Has the Government examined any measures which will alleviate the additional compliance cost created by the new method of calculating payroll tax?

(4) If so, what action or initiatives are proposed in this regard?

Mr COWAN replied:

(1) No. The vast majority of the Small Business Development Corporation's clients fall within the payroll tax exemption threshold.

(2) I am unaware of any complaints, either to my office or the SBDC, on the assessment of payroll tax in relation to:-

(a) being more complicated, or
(b) taking more time to calculate

However, the few queries I have received have been from medium sized firms in relation to the total cost of payroll tax to their business as opposed to compliance issues.

(3) This is an issue for the Minister for Finance.

(4) Not applicable.

AIRSTRIPS - DERBY AND FITZROY CROSSING

Funding

2606. Dr GALLOP to the Minister representing the Minister for Transport:

(1) Will the State Government make funds available to assist with the upgrading of the Derby airstrip?

(2) If yes, when will these funds be available to allow work to commence?

(3) Are there any plans for the State Government to assist in the lighting of the Fitzroy airstrip?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)-(2) The State Government has in place the Regional Airport Development Scheme (RADS). Subject to meeting eligibility criteria funds can be provided from this scheme for upgrading airports in regional areas. The Shire of Derby-West Kimberley was given RADS application documents but has not yet made an application for funding. Discussions have taken place between the Department of Transport and the Shire regarding an application and it is likely that a submission will be made in the near future, for funding in 1998/99.

(3) The State Government recently provided $1 million towards the cost of scaling the Fitzroy Crossing airstrip. This work is complete. An application for funding for lighting at the airstrip would need to be made through the RADS and would be assessed accordingly. Once again no application has been made.

PUBLIC RECORDS BILL - INTRODUCTION

2640. Ms McHALE to the Minister representing the Minister for the Arts:

(1) I refer to the recommendations of the Commission on Government Report No 2 and ask, when will the Public Records Bill be introduced into Parliament?

(2) Why is the Government proposing that there be a Public Records Office and a Public Records Commission?

(3) What are the proposed functions of each organisation?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

(1) Soon.

(2) The Government Records Commission is being set up to reflect changes in modern record keeping principles. The features of the Bill were described in my Discussion Paper of July 1994. I stated then - and have reiterated more recently to stakeholders such as the Australian Society of Archivists and the Records Management Association of Australia - that the proposed legislation will provide for the standard-setting and auditing roles to be performed by an independent Government Records Commission which will report directly to Parliament. The operational aspects of the legislation will continue to be administered through a Government Records Office. The assignment of the Government Records Office to a particular Minister will not be stipulated in the Government Records Bill, but will be determined by administrative edict according to circumstances. It would be unacceptable to have a body having the task of keeping the records check its own performance. It would be even more unacceptable if that body was an unaccountable body in that it was not responsible to a Minister.

(3) The functions of the Government Records Commission will include:

- establishing principles and standards for best practice record keeping across Government, including the selection of records to become archives;
- monitoring agencies' compliance with the legislation;
- inquiring into breaches of the legislation.

The functions of the Government Records Office will be carried out through a Director of Government Records, and will include:

- advising and training agencies on a range of record keeping matters;
- storing, preserving and securing government archives;
- facilitating access to archives;
- providing advice and assistance to the Government Records Commission.

ROADS - CANNING HIGHWAY

Henley Street-South Terrace Area - Accidents

2659. Mr PENDAL to the Minister representing the Minister for Transport:

(1) How many vehicle accidents have been reported on the stretch of Canning Highway, between Henley Street and South Terrace, for each of the following years -

(a) 1 July 1995 to 30 June 1996;
(b) 1 July 1996 to 30 June 1997?

(2) How many of these accidents have involved vehicles travelling northwards on the Highway, from Canning Bridge?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) (a) 60.
(b) 56.

(2) 1995/96 - 24.
1996/97 - 29.

LEGAL AID - FUNDING

Federal-Commonwealth Expenditure

2661. Mr MASTERS to the Minister representing the Attorney General:

(1) In each of the last three years, how much money has been spent on legal aid in Western Australia and what proportion of that expenditure has been provided by the Federal Government?

(2) In each of the last three years, how much money has been paid to the six largest law firms in Perth as legal aid assistance to their clients?

Mr PRINCE replied:

The Attorney General has provided the following reply.

(1)

	Total Expenditure $	Federal Government Provision
1994/95	25,058,415	10,869,146
1995/96	22,332,591	12,024,469
1996/97	23,206,621	11,529,372

(2) We are unaware which firms in Perth constitute the six largest but the six largest earners of Legal Aid law firms are:

1994/95	Total $ (Commonwealth)	Total $ (State)
McDonald & Sutherland		475,517
Paterson & Dowding	361,537	
Bayly & O'Brien		229,277
Dwyer Durack		220,085
Marcus Wood-Gush & Assoc		209,790
Greg Smith		192,897

1995/96	Total $ (Commonwealth)	Total $ (State)
McDonald & Sutherland		603,085
Paterson & Dowding	286,357	
Dwyer Durack	221,760	257,604
Bayly & O'Brien		212,586
Slater & Gordon		210,761
Birman & Ride		199,164

1996/97	Total $ (Commonwealth)	Total $ (State)
McDonald & Sutherland		411,627
Paterson & Dowding	345,618	
Dwyer Durack	285,983	204,257
Gunning		151,988
Julie Wager		141,377
Jeremy Scudds & Assoc		128,172

GOVERNMENT INSTRUMENTALITIES - OCCUPATIONS AND PROFESSIONS

Registered or Licensed

2667. Dr CONSTABLE to the Minister for Health:

Further to the Minister's answer to question on notice 2253 of 1997, how many professionals are registered or licensed in each category referred to in your answer?

Mr PRINCE replied:

In each instance, the maintenance of statistics pertaining to the registration of persons to the relevant professional boards would be the responsibility of those particular boards. Upon consultation with these boards, the following statistics were provided:

Board	As At	Number
Chiropractors Registration Board of WA	28/10/97	252
Dental Board of WA	17/10/97	1516
Dental Prosthetists Registration Board	not provided	89
Medical Board of WA	not provided	7800
Nurses Board of WA	31/10/97	24596
Occupational Therapists Board of WA	7/11/97	917
Optometrists Registration Board of WA	27/8/97	262
Podiatrists Board of WA	21/10/97	196
Pharmaceutical Council of WA	7/11/97	1465
Physiotherapists Registration Board of WA	7/11/97	1451
Psychologists Board of WA	4/11/97	1315

TRANSPORT - TENDERS

Preference for Australian Made Products

2699. Mr BROWN to the Minister representing the Minister for Transport:

(1) Has the Minister received correspondence from Staab Decor Australia Wide concerning the use of its product in Government tenders?

(2) Does the Minister intend to ensure this product or other Australian made products are used prior to imported products which export jobs offshore?

(3) If not, why not?

(4) Will preference be given to using Western Australian or Australian made products which are marginally more expensive than imported products in order to gain the employment benefits for the State and/or country?

(5) If not, why not?

(6) If so, what policy will the Minister put into effect?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) As far as my office records show I have not received any correspondence from Staab Decor Australia Wide.

(2)-(6) Not applicable.

POLICE - LICENSING CENTRES

Inspection of Older Model Cars

2706. Mr McGOWAN to the Minister representing the Minister for Transport:

(1) Has the Government issued an instruction to Police Vehicle Licensing Centres to inspect all older model cars?

(2) If so, why?

(3) Is such an instruction contrary to the laws currently governing vehicle licencing?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

I presume the member is referring to the Department of Transport's Vehicle Licensing Centres and I respond on that basis.

(1) No.

(2)-(3) Not applicable.

HEALTH - TELEMEDICINE PROGRAMS

Budget

2709. Mr GRAHAM to the Minister for Health:

What is the total budget for telemedicine programs in non metropolitan Western Australia for the period -

(a) 1992-93;
(b) 1993-94;
(c) 1994-95;
(d) 1995-96;
(e) 1996-97;
(f) 1997-98?

Mr PRINCE replied:

(a)	1992-93	Nil.
(b)	1993-94	Nil.
(c)	1994-95	Nil.
(d)	1995-96	$330,000.
(e)	1996-97	Nil.
(f)	1997-98	$1,500,000.

HEALTH - TELEMEDICINE PROGRAMS

Budget

2710. Mr GRAHAM to the Minister for Health:

What is the total budget for telemedicine programs in metropolitan Western Australia for the period-

(a) 1992-93;
(b) 1993-94;
(c) 1994-95;
(d) 1995-96;
(e) 1996-97;
(f) 1997-98?

Mr PRINCE replied:

There has been no specific budget except for $50,000 spent by Graylands Hospital in 1995. The Telehealth Unit in the Health Department was allocated a budget of $1,500,000 in 1997/98 but this money has not been allocated nor spent awaiting decisions on funding of the telecommunications infrastructure.

HEALTH - TELEMEDICINE PROGRAMS

Number and Location

2711. Mr GRAHAM to the Minister for Health:

(1) Are any telemedicine programs operating in Western Australia?

(2) If not, why not?

(3) If yes -

(a) what programs are operating;

(b) in what location are the programs available;

(c) what is the cost of each program;

(d) how long has each program been in operation;

(e) what is the life of each program;

(f) from what budget source is each program funded?

Mr PRINCE replied:

(1) Yes.

(2) There are only a small number of programs in operation because a suitable telecommunication infrastructure which reaches rural and remote areas in the State is needed before more programs can be economically implemented and existing programs extended.

(3) (a) There is a mental health video-conferencing network in the NorthWest Mental Health Services. This network also links to Graylands Hospital and Special Care Services in Perth. Tele-radiology in used in a number of private radiology practices and some public health services are provided

with radiology services by private radiology practices using tele-radiology. Broome District Hospital has a tele-ultrasound and tele-radiology link with Port Hedland.

Mobile tele-ultrasound is provided by a private radiologist in the SouthWest and the Health Department contracts a private radiologist in Port Hedland to provide tele-ultrasound links for the Pilbara and West Kimberley. A tele-ultrasound training facility in Kalgoorlie can receive tele-ultrasound images for ongoing training of sonographers in rural areas.

(b) The NorthWest Mental Health Services has video-conferencing equipment in Broome, Derby, Kununurra, Port Hedland and Karratha and Graylands Hospital has a video-conferencing unit. There are two private tele-radiology systems in the metropolitan area and one private system which links Bunbury and Busselton.

There are three public hospitals in the metropolitan area which have contracts with private radiology practices and use tele-radiology either for most of the image reporting or for after-hours reporting. Broome District Hospital links both tele-ultrasound and tele-radiology link with a private radiologist who has a contract with the Health Department at Port Hedland Regional Hospital. Derby, Fitzroy Crossing, Tom Price and Newman are linked to Port Hedland, to a private radiologist under contract with the Health Department, for tele-ultrasound.

(c) The NorthWest video-conference system was funded by National Mental Health Strategy funds at a total cost of $250,000. Graylands Hospital purchased their video-conference equipment and connections for $50,000. Private tele-radiology is costed privately as part of private commercial businesses.

Federal Department of Health and Family Services, Rural Health Support, Education and Training (RHSET) provided $18,000 in 95/96 for the rural ultrasound training program in Kalgoorlie.

The Broome District Hospital tele-ultrasound and tele-radiology equipment has cost $93,960 in 97/98, funded by Health Capital Works Commissioning Funds for upgrade of facilities. The tele-ultrasound equipment for Tom Price and Newman has cost in 97/98, funded by Health Capital Works Medical Imaging Council replacement and upgrade program.

(d)
* NorthWest Mental Health video-conferencing has been operating since 95/96.
* Kalgoorlie tele-ultrasound training RHSET since 1996 (95/96).
* West Kimberley Tele-ultrasound to Port Hedland 1995 (95/96).
* Broome District Hospital 1997 (97/98).
* Tom Price and Newman tele-ultrasound to Port Hedland 1997 (97/98).
* Private tele-radiology from 1995 and 1996.

(e) NorthWest Mental Health video-conferencing is resourced by staff as part of the NorthWest Mental Health service. The unit has found that the telecommunication costs are very high and this limits the use of the service from normal unit resources. The Mental Health Division in the Health Department has $400,000 to extend the tele-psychiatry network throughout the state. Training radiographers in ultrasound is needed if tele-ultrasound is to continue and expand in use. A review is in place to look at options which will best provide this training.

The Health Department is seeking to negotiate inclusion of tele-radiology and tele-ultrasound in all future contracts to provide radiology services. The Health Department has determined the needs for telehealth in the state and dimensioned an economical telecommunication infrastructure to meet the needs of telehealth. The infrastructure will provide suitable telecommunications for the use of telehealth in all areas of the state at a cost which is sustainable and affordable. The proposed infrastructure has been recently audited technically and recommendations were made that this should be implemented for the benefit of Western Australians.

(f) NorthWest Mental Health - Mental Health Department of Health budget. Radiology and ultrasound is either part of a private radiology practice funded by Medicare or individual contracts with the Health Department services and hospitals to supply radiology services for public patients.

ROADS - CITY NORTHERN BYPASS

Contracts

2722. Mr KOBELKE to the Minister representing the Minister for Transport:

(1) Will any of the contracts let for the City Northern Bypass project either commit the successful tenderer for

ongoing work or services once the project is opened for vehicular traffic or provide any right or option to undertake work required after its opening?

(2) If so, then which contracts entail the responsibility or opportunities to undertake such work?

(3) What is the nature and extent of this work?

(4) On what basis is the costing determined or to be determined for any such work?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)(2) Yes. The Design and Construct Contractor for Stage 1 of the Graham Farmer Freeway (Mitchell Freeway to East Parade) has also been awarded a separate contract to operate and maintain the tunnel for the first 10 years after opening to traffic.

(3) The works involve:

- operation, maintenance and repair of the tunnel and approaches in accordance with specified standards;
- maintaining all mechanical, electrical, ventilation and control systems in the tunnel in good working order;
- supply of all services, equipment and personnel needed to operate the tunnel including power and maintenance equipment;
- occupation, use, maintenance and protection of the tunnel control centre;
- supply of spares and stand-by equipment required;
- training of Main Roads personnel in the management, operation, maintenance and repair of the tunnel, prior to hand over to Main Roads; and
- replacement at the end of the 10 year period of all open graded asphalt wearing surfaces placed under the Stage 1 contract.

(4) The contract terms were negotiated at the same time as Stage 1 contract. This operate and maintain contract, which is valued at $29 532 173.00, is subject to Rise and Fall and was awarded in September 1996.

ROADS - CITY NORTHERN BYPASS

Baulderstone Clough Joint Venture - Contract

2723. Mr KOBELKE to the Minister representing the Minister for Transport:

Will the Minister table the relevant sections of the contract with Baulderstone Clough Joint Venture for contract No 19/95 involving the design and construction of the City Northern Bypass project from the Mitchell Freeway to East Parade which provides for any price rise above the lump sum on the price contracted?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

The Stage 1 contract awarded to Baulderstone Clough Joint Venture includes Rise and Fall in accordance with normal Main Roads practice for major works contracts. The relevant extract (Schedule 1) from the contract is tabled herewith. There is provision under the contract for Main Roads to direct change, or for the contractor to propose change, while maintaining or enhancing project quality. Such changes may also result in an adjustment to the contract sum.

ROADS - CITY NORTHERN BYPASS

Transfield Thiess Joint Venture - Contract

2724. Mr KOBELKE to the Minister representing the Minister for Transport:

Will the Minister table the relevant sections of the contract with Transfield Thiess Joint Venture for contract No 404/95 involving the design and construction of the City Northern Bypass project from East Parade to Great Eastern Highway which provides for any price rise above the lump sum on the price contracted?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

The Stage 2 contract awarded to Transfield Theiss Joint Venture includes Rise and Fall in accordance with normal Main Roads practice for major works contracts. The relevant extract (Schedule 1) from the contract is tabled herewith. There is provision under the contract for Main Roads to direct change, or for the contractor to propose change, while maintaining or enhancing project quality. Such changes may also result in an adjustment to the contract sum.

HOSPITALS - OSBORNE PARK

Ward 5 - Closure

2747. Mr BROWN to the Minister for Health:

(1) Is it true that Ward 5 at the Osborne Park Hospital has been closed?

(2) If not, was Ward 5 closed during or for any part of the month of October 1997?

(3) How long has the ward been closed?

(4) When will the ward be opened?

(5) Is it true that in the last three years the Government has refurbished the ward?

(6) How much was spent on the refurbishment?

(7) What was the rationale for closing the ward?

Mr PRINCE replied:

(1) Yes.

(2) Not applicable.

(3) Since 19 September 1997.

(4) When sufficient nurses have been recruited to provide safe patient care within the area.

(5) Yes.

(6) $86,000.

(7) Insufficient nursing staff to provide safe patient care.

MINISTRY OF JUSTICE - PARENTAL RESPONSIBILITY FOR CHILDREN'S PROPERTY DAMAGE

Legislation

2762. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Justice:

What, if any, legislation would -

(a) provide for parents to be financially liable for property damage caused by their children; and

(b) extend to parents whose child has left home without parental consent?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(a)-(b) The Young Offenders Act 1994 at the discretion of the Court.

QUESTIONS WITHOUT NOTICE

ROYAL COMMISSIONS - CITY OF WANNEROO

Corrupt Payment - Liberal Party Candidates' Election Campaigns

802. Dr GALLOP to the Premier:

I refer to the Premier's "Pontius Pilate" response to my previous question with regard to the Royal Commission into the City of Wanneroo's finding that Dr Wayne Bradshaw used part of a $15 000 bribe that he received "to advance the cause of the Liberal Party" and to the commissioner's acceptance of evidence that some of this corrupt money was "disbursed to pay accounts connected with the election campaigns of Liberal Party candidates" and ask: When will the Premier display some decency and leadership on this matter and take action to find out which Liberals benefited from this corrupt payment; or is the Premier not interested in exposing the truth about where the money went?

Mr COURT replied:

I have answered the question and said that all of the information on political donations was asked for by the appropriate authorities and was provided. I think what is getting the Leader of the Opposition a bit excited is that the WA Inc royal commission found that considerable sums of money flowed into the Labor Party and went to a number of individual members, who were named.

Dr Gallop: This is corrupt money. Where did it go?

Mr COURT: The allegation that the Leader of the Opposition made in this Parliament was that the member for Kingsley, as I understand it, had received corrupt money. The royal commission showed that was not the case.

ROYAL COMMISSIONS - CITY OF WANNEROO

Corrupt Payment - Liberal Party Candidates' Election Campaigns

803. Dr GALLOP to the Premier:

Does the Premier care where this money went within the Labor Party?

Mr COURT replied:

There are very strict requirements about disclosure of funding for political parties and the like, and all of our members meet those requirements.

RESOURCES DEVELOPMENT - WESTRALIAN SANDS LTD

Pig Iron Plant

804. Mr MASTERS to the Minister for Resources Development:

On Monday, 20 October, Westralian Sands Ltd announced plans to build a pig iron plant to process iron oxide solids produced as waste from its synthetic rutile plant at North Capel. What economic benefits will accrue to the company, the local Capel community and the State as a result of this environmentally friendly proposal to turn a waste material into a marketable and profitable product?

Mr BARNETT replied:

I thank the member for the question. The member and I were at the Westralian Sands site last week. This is certainly not the largest resource development project in the State - the pig iron plant has a capital value of about $18.5m - but it is very interesting. As the member foreshadowed in his question, using iron oxide, which is currently a waste product from the mineral sands process, to produce pig iron provides a commercial return and a new export activity. It gets rid of a waste product, for which there are difficulties in finding disposal sites, and turns it into a commercial product. The other by-product is the large amount of slag material which will be produced and which is suitable for road construction in the area and in aggregate in building construction which will take some of the pressure off the local gravel pits, and the like. It is an innovative project.

Dr Gallop: I believe the National Party has some development ideas in Vasse as well.

Mr BARNETT: Good on it!

This indicates that despite the many large resource development projects in the State, a number of small innovative

things can be undertaken. Companies can look at their waste products and think of ways to use them, and this is a good example of an innovative approach. The member for Collie is not here, but the company uses 16 000 tonnes of coal in the process. It is a small project but local in its nature. About 85 per cent of the content will be local.

Mr Grill: This is old news.

Mr BARNETT: The member should be interested.

Mr Grill: I am.

Mr BARNETT: That is good.

HOSPITALS - PRINCESS MARGARET HOSPITAL FOR CHILDREN

Operating Theatres - Closure for up to 10 Weeks

805. Mr McGINTY to the Minister for Health:

(1) What will be the effect on the surgery waiting list of the closure of five Princess Margaret Hospital for Children surgery operating theatres for up to 10 weeks early in the new year?

(2) Is it true that the number of children on the waiting list for surgery at PMH will double to 2 000 as a result of the Minister's cost cutting measures?

(3) What will be the effect on the surgery waiting list of the closure of two King Edward Memorial Hospital for Women operating theatres for five weeks in the new year?

Mr PRINCE replied:

(1)-(2) With regard to the time calculated from an answer to a question on notice to me by the member for Churchlands, a good deal of work is being done on whether the number of days is accurate -

Mr McGinty: That was a week ago, and you have not corrected it.

Mr PRINCE: I have not been able to -

Mr McGinty: This is misinformation to the House.

Several members interjected.

The SPEAKER: Order!

Dr Edwards: It is seasonally adjusted!

Mr PRINCE: No. As pointed out by the member for Churchlands, one of the dates was wrong. It was 14 months to start with, but it was a typographical error. The figure was typed as 1997 instead of 1998.

Mr Ripper: Are you saying that the number of weeks stated by the member for Fremantle is wrong?

Mr PRINCE: Let me finish! Consequently, I asked how accurate are all the other dates. PMH and King Edward Memorial Hospital CEOs and executive have provided further information. As I discussed with the member for Churchlands, it is my intention to make a personal explanation when I am positive that my information is accurate.

Mr McGinty: Why did they give you false information in the first place?

Mr PRINCE: I do not think it was false information. I think it was a matter of how one calculates the number of days. I am aware that the information is not correct. I have asked for the information to be corrected. I have no way personally of checking the accuracy of that sort of information, because it comes from the hospitals and from the executive; it is in answer to a question; I sign it, and put it in the system. The member for Churchlands pointed out the typographical error, which caused me to ask whether the whole thing was right.

I will provide a complete and accurate answer as soon as I can get it, and I will put it to the House. There will be closures; there are always closures at PMH and King Edward and other hospitals, especially over Christmas when the vast majority of people seeking elective procedures do not want to be in hospital, their relations do not want them to be in hospital, and usually staff appreciate time off over Christmas to be with their families. The length of time that a theatre is to be closed is a matter for the hospital to determine, not me.

Mr McGinty: It is a matter for you - you are the Minister.

Mr PRINCE: I have made no direction; I have given no information; I have not asked for anything. It is a matter for the hospital to decide. Having received the information, I am asking why facilities are being closed for the periods they are being closed. As soon as I am able to give accurate information to Parliament, of course I shall do so. I hoped to do that today, but unfortunately it is not available. I will make a personal explanation as soon as I have the information.

Mr McGinty: It is now a week later and you still have not corrected the information.

Mr PRINCE: I became aware of the errors only at the end of last week and I have not been able to get the information.

(3) There may well be an effect on waiting times. However, I cannot say what it will be because I do not have the information with me. Now that the member has asked, I will find out and tell him.

HOSPITALS - WAITING LISTS

End

806. Mr McGINTY to the Minister for Health:

Is there a scintilla of truth in the story that appeared in the *Fremantle Gazette* headed "Prince flags end to waiting lists" after he gave an exclusive interview? Clearly we will not see the end of waiting lists.

The SPEAKER: Order! Supplementary questions should be short and to the point. There has been far too much interjection. About six people wanted to get into the act on the last question.

Mr PRINCE replied:

Yes, of course there was a good deal of truth in it.

Mr McGinty: Rubbish. We will see the end of waiting lists! That is a lie!

Mr PRINCE: What a ridiculous proposition. Even this member has the capacity to understand that if we can collate the waiting lists not only for teaching hospitals - that is the only information we have because the waiting lists for the other hospitals are kept by the doctors - but also for non-teaching hospitals, which is what the waiting list strategy is about, and hold them centrally, then we can use the total capacity of the health system for all patients across the metropolitan area.

The SPEAKER: Perhaps the Minister will bring his answer to a close shortly.

Mr PRINCE: Of course, Mr Speaker. Doctors can understand that, as can the people running the health system, but the member for Fremantle lacks that capacity.

RAILWAYS - SPECIALIZED CONTAINER TRANSPORT

Canning Vale Marshalling Yard - Clearance

807. Mrs HOLMES to the Minister for the Environment:

(1) Is it true that the Environmental Protection Authority has given Specialized Container Transport a clearance to proceed with its proposed development of marshalling yards at Canning Vale?

(2) If not, what is the situation?

Mrs EDWARDES replied:

I thank the member for some notice of this question. I am aware of considerable concern about this matter by the people in Canning Vale. I was particularly concerned that this rumour was being spread.

(1) The chairman of the EPA has said that no such clearance has been given. The EPA bulletin on this proposal is scheduled to be released on 28 November and will therefore be published in *The West Australian* on Saturday, 29 November. Any suggestion that due process has been circumvented or that its integrity has been undermined is not true.

(2) Following the publication of that bulletin, the report is open to the normal 14 day appeal period, during which time anyone can appeal the substance of the report or its recommendations.

HEALTH - BUDGET

Deficit - Australian Medical Association's Information

808. Dr GALLOP to the Minister for Health:

I refer the Minister to the Australian Medical Association's journal *Medicus*, in which the AMA states that it has been advised that the budget hole in Health is closer to $130m rather than $70m.

(1) Has the AMA been accurately advised about the budget hole?

(2) If not, what is the correct figure?

Mr PRINCE replied:

(1)-(2) I read the *Medicus* with interest last night. I do not know from where it obtained the information. It was put to me by the journal staff some time ago -

Dr Gallop: Its sources are usually pretty good. They seem to know a bit more than you, and you are the Minister.

Mr PRINCE: They put that information to me some time ago, but it is not accurate - it is not true.

Dr Gallop: What is the accurate figure?

Mr PRINCE: It is $70m for the Metropolitan Health Service which, as I said yesterday, could be reduced to $50m with some management through the Health Department. The Metropolitan Health Service handles the majority of hospitals, as the Leader of the Opposition understands. The total figure is not known for the country: Certainly, problems exist at Geraldton and Busselton, but not in Kalgoorlie or Esperance. Albany is on budget and Bunbury is all right. In other words, the full picture for the country is not known. I do not know from where the author of that article got the $130m, but it is not what has been given to me as information.

Dr Gallop: What has been given to you?

Mr PRINCE: The $70m.

NATIVE TITLE - ACT

Impact on Land Prices in the Goldfields

809. Mr SWEETMAN to the Premier:

Will the Premier inform the House of the impact the federal Native Title Act has had on land prices in the goldfields area?

Ms Anwyl: Why not resource the land council there? It is under-resourced.

Mr COURT replied:

I am about to tell the member why that body is under-resourced. Land prices in Kalgoorlie and in the goldfields generally have become a major social issue which is directly related to the inability to place residential land onto the market.

Dr Gallop interjected.

The SPEAKER: Order!

Mr COURT: I will outline the serious situation in the goldfields, about which I have not heard too much from the member for Kalgoorlie.

There are 98 native title claims in the goldfields region, every one of which is subject to at least one and often more competing claims. In fact, 18 claims have been made over a single area, and 21 claims over a single mining project. This makes it almost impossible to comply with the right to negotiate procedure. Even if only one claimant refuses to agree to a matter, it can prevent a venture from proceeding. Some of the claims in this area, as the local member is aware, are for exclusive possession, even though the land itself has had a complex history of land and mining tenure over the past 100 years.

The problem is that a significant new release of residential or industrial land has not been made in Kalgoorlie for at least two years because of delays associated with the legislation. The average price of a block of land in the O'Conner division, and we are rapidly running out of this land, is over $70 000 a block.

Mr Riebeling: It is $90 000 in Karratha, and you do nothing about it.

Mr COURT: We have the same problem there.

Dr Gallop: One thing is certain: John Howard's legislation will not fix it up!

Mr COURT: Hang on.

The SPEAKER: Order!

Several members interjected.

The SPEAKER: Order! I formally call the Leader of the Opposition to order for the first time. The Premier is answering the question, yet members are interjecting across the Chamber on matters which barely relate to the question.

Mr COURT: In a relatively short time, the price of land in Kalgoorlie has jumped from around $40 000 to $70 000. To try to overcome the land shortage, subdivision of existing blocks has occurred, and the subdivided components of those blocks have been selling for around $90 000. Basically, the question of affordability of land is becoming a very serious issue, yet members opposite are silent on the issue.

Dr Gallop: We have been loud and firm: No to John Howard's legislation as it will not work! You have all the advice. Will you table your advice in the Parliament? Will you tell us the amendments the Prime Minister is proposing to his own legislation? The Premier does not know.

Mr COURT: Last week, neither the Leader of the Opposition nor other members opposite could tell us whether they supported amendments put forward by the Labor Party because no-one had read the report.

Dr Gallop: The Labor Party amendments have not been put forward yet. You have seen them, have you? They are being drafted now.

Mr COURT: The Labor Party put forward amendments in the minority report.

Dr Gallop: They have not put forward the amendments yet as they are being drafted. I spoke to the federal leader on Friday. You don't have a clue, my friend. You're spreading stories in the community for your political benefit! Your record, my friend, is 7:0; that is what the High Court of Australia thinks of you. You are a hopeless Premier.

Mr COURT: Does the Leader of the Opposition support the Labor members' proposals put forward in the minority report on native title?

Several members interjected.

The SPEAKER: Order!

Dr Gallop interjected.

The SPEAKER: The Leader of the Opposition will come to order. Members, we have a whole lot of questions being asked by all sorts of people. That is not acceptable. We have one question and the Premier has the call to answer it. Perhaps we could have a little less interjection and the Premier could start to bring his answer to a close.

Mr COURT: Six weeks ago the Labor Party members put forward their proposals for changes to the legislation. As of today the Leader of the Opposition cannot tell us whether the Opposition supports it. We have totally unworkable legislation, which the coalition Government is trying to make work. We have a problem with shortages of land in Kalgoorlie, Karratha, Port Hedland, Broome and Kununurra. We have a responsibility as legislators to put workable land management legislation in place.

Several members interjected.

The SPEAKER: Order! The member for Bassendean.

Mr Brown interjected.

The SPEAKER: I formally call the member for Bassendean to order for the first time.

Mr Brown interjected.

The SPEAKER: I formally call the member for Bassendean to order for the second time.

Mr COURT: The Labor Party gave us unworkable legislation. The coalition has amendments to try to make the legislation workable. The Opposition treats it all as a big joke.

INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY - SALE OF PROPERTIES

Complaint

810. Ms MacTIERNAN to the Minister for Housing:

I refer to the 38 Industrial and Commercial Employee Housing Authority properties that were sold in 1995-96 without any written contracts with the selling agent.

(1) How many of these properties were not authorised for sale by the ICEHA board?

(2) Has legal advice been taken on possible breaches of the law arising out of the sale of the 38 properties?

(3) Has a complaint been made to the Real Estate and Business Agents Supervisory Board concerning the conduct of the selling agent?

(4) Has any other legal action been taken, including action to recover the commissions paid?

Mr Kierath interjected.

The SPEAKER: Order, Minister for Planning!

Dr HAMES replied:

I thank the member for some notice of this question.

(1) None.

(2) Yes.

(3) No.

(4) Yes.

INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY - SALE OF PROPERTIES

Legal Advice

811. Ms MacTIERNAN to the Minister for Housing:

As a supplementary question, will the Minister provide us with further detail on the legal advice that has been sought and the legal advice that has been obtained?

Dr HAMES replied:

Further work is still being done on this complex issue. I will be happy to provide the member with a briefing if she wishes to have one.

GOVERNMENT CONTRACTS - TENDERING PROCESS

Appeals

812. Mr BLOFFWITCH to the Minister for Works; Services:

On occasions I have had unsuccessful tenderers approach me regarding what process of appeal is available to them. I have always advised them to approach the government agency involved. However, what other mechanisms are available for unsuccessful tenderers to have their concerns investigated?

Mr BOARD replied:

I thank the member for some notice of this question.

It is important for those involved in the tendering process between government and the private sector that the process be open and accountable. In a competitive tendering process on the odd occasion tenderers feel aggrieved by the process. With that in mind, we have put in place a mechanism whereby purchasing officers in each agency are required to debrief unsuccessful tenderers. If at the end of that debriefing tenderers are still concerned about the process, chief executive officers must take responsibility for the process and advise those tenderers why they were unsuccessful. I am aware that many people would like a more independent system. From that point of view, the Government is fulfilling an election commitment to establish a contracts referee. Under the State Supply Commission Act, the State Supply Commission is ultimately responsible for advising unsuccessful tenderers in the case of their

being aggrieved. An independent office of contracts referee within the State Supply Commission will be established before the end of this year. It will report to me, but it will be an independent shopfront office to deal with those who are concerned about the process. I am advised by the industry that people are looking for an education program to advise all of those involved in the tendering process the extent to which the Government is delivering on its election promise. I assure members that that will be put in place, as was a Commission on Government recommendation, before the end of this year.

REAL ESTATE - MR CHARLES PATRICK O'LEARY

Licence

813. Ms MacTIERNAN to the Minister for Fair Trading:

(1) Is Charles Patrick O'Leary currently licensed to operate as either a real estate agent or real estate representative?

(2) If yes, when was that licence or authority last renewed?

Mr SHAVE replied:

I thank the member for some notice of this question. I have been given the following advice.

(1) Mr O'Leary is not a licensed real estate agent. However, he has lodged an application for renewal of a real estate sales representative certificate of registration. The renewal of this certificate has not been approved.

Ms MacTiernan: When was it lodged?

Mr SHAVE: Let me finish. However, the Act provides that the certificate can be renewed at any time during the 12 month period after expiry and the board can deem that the registration is continuous.

Ms MacTiernan: In other words, he is still operating?

Mr SHAVE: Come on! Let me finish. I am giving the member a clear explanation.

Ms MacTiernan: Yes, but I want the truth. Is he still operating as a real estate agent?

Mr SHAVE: The member for Armadale knows I always tell the truth. I am advised that it is the view of the Real Estate and Business Agents Supervisory Board that the Act does not permit the board to prevent a licensed or registered person from operating when a renewal application has been made but has not been determined by the board.

Ms MacTiernan: When was the application made?

Mr SHAVE: The member did not ask me that question.

Ms MacTiernan: Yes, but you have a briefing there. When was it made?

Mr SHAVE: I am trying to give the member a briefing. The member is very impatient.

Ms MacTiernan: I want the real answer, not the whitewash.

The SPEAKER: Order!

Mr SHAVE: Mr Speaker, the member for Armadale gave me notice of a question and asked me to get the information, which I am doing, and now presents another question about a date I am supposed to know something about. Does she think I would know every renewal date for every real estate salesman?

Ms MacTiernan: No, I think you would have read the file. You have been sitting on it for six months.

Mr SHAVE: The member should be a little fair. I always thought she was a caring and understanding person.

Ms MacTiernan: This is another whitewash.

Mr SHAVE: I will continue giving the answer to the question the member asked. The registrar of the board is aware that the Ministry of Fair Trading is conducting investigations into the activities of Mr O'Leary. As a result of legal advice, the board has determined to defer consideration of Mr O'Leary's renewal application. If the member for Armadale waited, she would have heard that. In addition, the Ministry of Fair Trading intends to make application to the board for an inquiry. The application will be considered on 28 November 1997.

(2) Mr O'Leary's certificate of registration was previously renewed on 10 May 1996.

HOSPITAL - MANDURAH

Completion of Construction

814. Mr MARSHALL to the Minister for Health:

Although it is some time since it was announced that Mandurah would have a new 132 bed hospital, work on the hospital commenced in April 1996 and seems to be going smoothly.

(1) When will the hospital be completed?

(2) When will the first patients be admitted to the new hospital?

(3) What new services will be available to residents in the Peel and Dawesville region?

Mr PRINCE replied:

(1) The most recent report that I have from Leighton Contractors, the builders, is that the Peel Health Campus will be completed in about September 1998. That is subject to licensing and commissioning. The construction of the building is well ahead of schedule.

(2) Patients from the existing hospital, and new patients, are expected to be admitted to the first stage of the new hospital in late February 1998 - again that is subject to licensing and commissioning; it is a staged exercise.

(3) When it is completed the Peel Health Campus will provide residents who go there with the following range of new services in addition to that which they already receive: More variety of surgical procedures; renal dialysis; an intensive care unit; day surgery; a day hospital; a palliative unit; pediatric beds; more emergency services; an increased range of medical imaging services; some private beds - 20 in all; a residential unit for relatives or parents of patients; consulting suites on the hospital site; increased beds - from 30 to 130; on site community health service; on site community mental health services; increased pathology services; more operating theatres; a midwifery unit; and a nursery for acutely ill babies.

Mr Kierath: Sounds like a social dividend to me.

Mr PRINCE: That is what should have been built in 1988 when the hospital was built in the first place. We promised this, and we are delivering.

FAMILY AND CHILDREN'S SERVICES - MIDLAND OFFICE

Report of Death of Child

815. Ms ANWYL to the Minister for Family and Children's Services:

I refer to the Minister's attempt last month to dismiss claims of a funding crisis by staff at the Midland office of the Family and Children's Services and ask -

(1) Is the Minister aware that while she was telling this House that there was no cause for concern about unallocated cases at Midland, up to 15 prioritised cases were on the unallocated list?

(2) Is the Minister aware that these 15 unallocated cases included serious allegations of sexual and physical abuse and neglect of primary school age children?

(3) Given the Minister's statement that the report of the inquiry into the death of a young child would be available by 15 November, I ask whether that report has been completed and when it will be tabled?

Mrs PARKER replied:

I thank the member for the question.

(1)-(3) I did not give an exact date. The member for Kalgoorlie can check the record.

Ms Anwyl: I have taken my question from the record. The Minister said "within a month or so".

Mrs PARKER: Yes. I understand that the report has been completed and handed to the department. The director general is on leave at the moment and will deal with that report when he returns from leave. Does the member want that report to be tabled in this House?

Ms Anwyl: Yes, it is appropriate as it raises concerns about unallocated cases. On my information this continues to be the case at Midland and has been the case with notifications to your department for more than 12 months. This

happens every month. There are unallocated prioritised cases including child sex abuse, neglect and physical abuse.

Mrs PARKER: I will decide whether I will table that report when I have read it. I take on board the member's interest and keenness to have that report tabled in this House. Senior officers from the department have visited the Midland office and checked how the case load is going at Midland and what the situation is in reality. I look forward to receiving the report and will give the member a briefing on it when I receive it.