



Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE ASSEMBLY

Wednesday, 29 March 2000

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

FLAME OF REMEMBRANCE

Statement by Speaker

THE SPEAKER (Mr Strickland): The President and I have approved a gas cauldron to be temporarily installed in the main foyer of Parliament House. On Thursday morning, 30 March, the President of the Legislative Council will light the cauldron in the main foyer at 10.00 am, symbolising the passing of the flame from the care of AlintaGas to the people of Western Australia. The flame to be used in the dedication ceremony was drawn from the eternal flame at the Australian War Memorial in Canberra in April 1997. The flame has since been kept alight at AlintaGas's research laboratory in Bentley.

The flame will burn and be on display at Parliament House until just prior to Saturday's ceremony. From 9.45 am on Thursday 30 March, when the flame arrives at Parliament House, until 2.15 pm on Saturday 1 April, an honour guard of scouts, girl guides and cadets will maintain a vigil over the flame. More than 200 representatives from Western Australia's scouts, guides and cadets have been selected to watch over the flame in the lead up to Saturday's dedication ceremony at the State War Memorial in Kings Park. Groups of four representatives will carry out half-hour long shifts, standing to attention around the flame.

The foyer at Parliament House will remain open to the public until 8.00 pm on Thursday and Friday nights. On Saturday 1 April at 2.15 pm I will transfer the flame to a specifically designed torch. An escort of veterans, scouts, guides, cadets, community representatives and military personnel will then carry the torch from Parliament House to the head of Fraser Avenue. A relay of 20 torch bearers will pass along Fraser Avenue to the State War Memorial precinct in time for Her Majesty Queen Elizabeth II's arrival. Her Majesty will light the Flame of Remembrance as part of the official dedication ceremony commencing at 2.30 pm.

COURTS LEGISLATION AMENDMENT BILL 1999

Speaker's Ruling

THE SPEAKER (Mr Strickland): The Courts Legislation Amendment Bill 1999 has been transmitted to the Legislative Assembly from the Legislative Council. I have had an opportunity to look at the Bill to see if it is a Bill appropriating revenue and consequently one which can only be introduced in the Legislative Assembly in accordance with section 46(1) of the Constitution Acts Amendment Act 1899. Among other things, the Bill makes provision for the employment of personal staff for judges and masters of the District Court of Western Australia and the Supreme Court under contracts of service as associates, orderlies or other assistants to those judges and masters. Continuing the approach of this House, which I reaffirmed in my ruling on the Land Administration Act 1997, it is plain that the requirement to pay those staff effectively appropriates revenue. The Bill should not have originated in the Legislative Council and, accordingly I rule it out of order.

PANGEA NUCLEAR WASTE REPOSITORY

Petition

Dr Edwards presented the following petition bearing the signatures of 20 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia are totally opposed to the Pangea proposal to locate a high level nuclear waste dump in Western Australia.

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

[See petition No 103.]

PLANNING APPEALS BILL

Petition

Dr Edwards presented the following petition bearing the signatures of 18 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned petitioners, call upon the Court Government to abandon plans to proceed with that section of the Planning Appeals Bill which authorises the Planning Minister to intervene during an investigation of an appeal if he considers it to be of State, Regional or other public importance.

We believe this will give new and unprecedented powers to the Minister and call upon the Government to redraft the legislation so that the new appeal system is truly independent of the Minister.

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

[See petition No 104.]

MFA FINANCE PTY LTD

Response to Statements of Member for Fremantle

MR BLOFFWITCH (Geraldton) [12.06 pm]: I have for presentation the Procedure and Privileges Committee's Report on a company referred to in the Legislative Assembly. The Speaker of the Legislative Assembly referred to the Procedure and Privileges Committee a letter from MFA Finance Pty Ltd seeking to use Standing Order 114 to respond to statements made by Mr J.A. McGinty MLA, member for Fremantle, on 16 November 1999 and 14 March 2000. The committee has agreed to the attached response proposed by MFA Finance Pty Ltd. In accordance with Standing Order 114, the committee has not considered or judged the truth of any statements made in the Legislative Assembly or in the submission. I move -

That the report be adopted.

Question put and passed.

Mr BLOFFWITCH: The committee recommends that a response by MFA Finance Pty Ltd in the terms specified in the appendix to this report, be incorporated in *Hansard*.

The response reads as follows -

MFA Finance Pty Ltd (MFA Finance) wishes to respond to allegations made on 14 March 2000 by the Member for Fremantle, including a statement that MFA Finance is a "company which can be best described as a group of gangsters". (*Hansard* 14 March 2000 p4670.)

MFA Finance also makes the point that by not responding to earlier claims made in Parliament in respect of the company, it should not be construed that the company, its officers and directors accept the truth or validity of any of these allegations. However, MFA Finance does wish to make the point that there has been no conspiracy to defraud anyone or rob anyone, either alleged or at all.

There has been widespread media coverage of the statement made on 14 March 2000 by the Member for Fremantle.

On 22 March 2000, MFA Finance submitted to the Speaker in writing under its common seal a request that MFA Finance be able to incorporate a response to that statement in *Hansard* pursuant to Standing Order 114. This was the day after the *Hansard* report of proceedings from 14 March 2000 was available and was therefore the first day on which the request could be made.

The Oxford Dictionary defines the term "gangster" as meaning "a member of a gang of criminals or toughs" and implies involvement in crime.

MFA Finance and its directors and officers deny that they are "gangsters" or criminals, or that the company conducts its affairs in a manner that would justify that extreme and extraordinarily damaging description.

MFA Finance was incorporated on 20 February 1995 and has been engaged in the business of finance broking since that time. The company has an executive director, Ross Fisher, and four non executive directors, Ken Court, Russell Hawkins, Neil Pinner and Michael Brennan. Messrs Fisher, Court and Hawkins have no shareholding or other beneficial interests in MFA Finance. Mr Ken Court is the brother of the Premier of Western Australia, the Hon Richard Court MLA.

The main business of MFA Finance has been broking loans secured by property assets. Prior to the default in late 1999 of loans made to various entities associated with Mr Greg Kennedy (the "Kennedy loans"), investment loans brokered by MFA Finance had never lost any money. Previous loans that had defaulted had always been resolved in the normal course of business without any loss of principal or interest.

MFA Finance is an operating company (unlike some other finance brokers that have been referred to in Parliament over the last few months) and is commercially responsible and prudent, having in place appropriate safeguards for the protection of investors' funds. The company voluntarily disclosed full details of the Kennedy loans to the Australian Securities & Investments Commission (ASIC) in May 1999. During that check ASIC did not require changes to any of MFA Finance's practices and procedures.

Allegations by the Member for Fremantle in November 1999 about the Kennedy loans were referred to the WA Police Service, with whom MFA Finance has been in contact.

MFA Finance regrets that the Kennedy loans have defaulted in circumstances where valuations of the mortgaged properties from suitably qualified and experienced valuers are now being questioned.

In these circumstances MFA Finance objects in the strongest possible terms to the use of the word "gangsters" and the unjustified, unwarranted, outrageous and damaging implications that it carries.

But for the attack on MFA Finance by Mr McGinty in Parliament on 16 November, the company may have been able to find satisfactory commercial solutions to the Kennedy loans and to look after the interests of investors in those mortgages, all of which have been disclosed to ASIC and the Ministry of Fair Trading.

Unfortunately, the focus on finance broking resulting from the allegations about the collapse of larger firms spread to MFA Finance. Once it was widely publicised that there were problems with the Kennedy loans, there was an immediate adverse effect on the values of the properties concerned. This was the direct result of revealing information normally regarded as market sensitive and signalled likely losses for investors, Mr Kennedy and the company.

Other matters involving MFA Finance were specifically mentioned in the Legislative Assembly on 14 March 2000 and we believe it is therefore appropriate in this forum to confirm that:

- ☐ Two loans advanced against shares in listed companies were repaid in full, prior to Mr McGinty mentioning them in Parliament on 14 March 2000. The investor was informed and his accountant had been advised in writing that the full proceeds including interest had been banked to Mr Crew's personal account.
- ☐ Loans advanced to Australian Limestone will be substantially repaid following settlement of a residential security property in East Fremantle that was sold immediately after auction on Sunday 19 March 2000. The balance is secured by a first mortgage over another residential property and management of this has now been taken over by another party. MFA Finance sees no reason why the balance will not be settled in due course with the investor receiving all funds with full interest, plus penalty interest. Mr McGinty's further claim in Parliament on 22 March 2000 that MFA Finance had not acted in the investor's best interests was made after the company had taken appropriate steps well before the auction, and before its management had been transferred to another party, to achieve the best return for all parties.
- ☐ Re Mr Eric Crew, the company has always acted professionally and honourably in a long-term relationship with Mr Crew. The Member for Fremantle claimed in the Legislative Assembly (*Hansard*, 14 March 2000, p4670) that:

"... MFA Finance colluded ... to defraud Eric Crew of \$55,000 ..."

"... engaged in that unconscionable behaviour to rob a blind, elderly man of \$55,000 ..."

"... (Mr Crew) has been viciously exploited by a company which can best be described as a group of gangsters ..."

Reference was made to a power of attorney MFA Finance held from Mr Crew. This was solely for the purpose of executing documents to discharge mortgages, collect principal and interest payments, and to enforce mortgages to recover funds. The power of attorney was never used to initiate investments, nor could it be used, nor was there ever any intention to use it for this purpose.

MFA Finance always acted properly in its relationship with Mr Crew who over many years has had an extensive portfolio and currently participates in two mortgages to one borrower that could eventually result in a loss.

With any investment loan, it is important that normal commercial and legal processes be followed to settle problems and determine where, if any, liability exists. These matters cannot be settled in Parliament or in the media.

The day to day management of MFA Finance has been handled by the executive director Mr Ross Fisher. The non-executive directors, including Mr Ken Court, do not get involved in the full detail of each transaction or the day to day management of MFA Finance.

Mr Fisher is highly regarded in the finance industry, in which he has worked for 45 years. During the past 30 years he has held senior positions with State and national bodies and been involved in representations to ministers of Western Australian governments, both Liberal and Labor, on industry matters.

MFA Finance makes this submission to Parliament to attempt to put the situation into perspective.

Throughout its history and through the recent period of parliamentary and media coverage of its affairs, MFA Finance has opened its files to full scrutiny and offered co-operation with the relevant authorities. This will continue in the interests of getting the best result for investors, the company and the industry.

The statement made in the Legislative Assembly that MFA finance is a "company that can be best described as a group of gangsters" is unjustified, unwarranted and damaging to MFA Finance, its directors, officers and investors.

Yours faithfully

Director NEIL JAMES PINNER

Secretary NEVILLE LESLIE WALKER Company Seal

MFA Finance Pty Ltd

NATIONAL INDIGENOUS ENGLISH LITERACY, NUMERACY AND ATTENDANCE STRATEGY

Statement by Minister for Education

MR BARNETT (Cottesloe - Minister for Education) [12.09 pm]: One of the most significant challenges faced by all education systems today is the need to improve the educational outcomes of Aboriginal and Torres Strait Islander students. I am pleased to be able to advise the House that earlier today in Sydney, the Prime Minister launched the National Indigenous English Literacy, Numeracy and Attendance Strategy, the main objective of which is to achieve equitable and appropriate educational outcomes for indigenous Australians.

The State Government is already allocating approximately \$100m a year in funding for staff, per capita grants to schools and various other initiatives to assist these students. Examples of specific projects include the establishment of the Aboriginal Education and Training Council, the construction this year of the \$4.5 million Community College for Aboriginal Education in Midland, the development of a new career path for Aboriginal and islander education workers in government schools, and scholarships to encourage aspiring indigenous teachers.

In addition, there are many innovative and successful locally developed programs aimed at assisting indigenous students in Western Australian schools, both government and non-government. However, overall these students are not achieving standards comparable to those of their non-Aboriginal counterparts. The additional commonwealth funding to be provided under the national strategy will enable existing programs to be extended and enhanced and new initiatives to be introduced.

The Western Australian implementation plan of the national strategy is a cooperative initiative between the Commonwealth Government, the State Government through the Education Department, the Catholic Education Commission and the Association of Independent Schools. Initiatives under the strategy will be implemented in government, Catholic and independent Aboriginal community schools in the Kimberley region, the Port Hedland township, the Kalgoorlie and Coolgardie townships and the Swan education district. Among the programs included in the strategy are extending the existing student tracking system into the Kimberley region to locate students across all three sectors who are missing from enrolment lists; encouraging Aboriginal students to stay at school through improved education and training opportunities; using mentoring activities to improve the educational outcomes and aspirations of Aboriginal students, while building stronger links between students' extended families, schools and employers; establishing arrangements for a whole of community approach to addressing barriers to secondary school education and employment opportunities; extending the Education Department's work on addressing middle-ear disease; establishing a framework for measuring the preparedness of all students to achieve their learning potential on entry into school; and piloting a program through the schools of isolated and distance education to track the educational outcomes of students through the use of appropriate CD-ROM technology.

A state-based steering committee will oversee the plan and the Aboriginal Education and Training Council will commission a review of achievements against the performance indicators each year. There is a long-standing commitment to improving the educational outcomes of indigenous students in Western Australia. I am confident that the work possible through the national strategy, coupled with the work already being done, will enable significant gains to be made towards achieving this goal.

The Minister for Employment and Training, Hon Michael Board, is this morning attending the ceremony in Sydney and also representing me as Minister for Education.

CRIME, CLEARANCE RATE

Statement by Minister for Police

MR PRINCE (Albany - Minister for Police) [12.12 pm]: There is no doubt that Western Australia has experienced high levels of crime since the mid-1990s. However, I am pleased to say that in the last quarter of 1998, crime and clearance rates began to show a more positive trend, a trend that has continued through 1999 and into 2000. In 1999, the number of reported offences fell by 5.5 per cent, while the clearance rate was up by 2.6 per cent. In the most concerning areas of crime, armed robbery fell by almost 34 per cent, motor vehicle theft by almost 20 per cent and home burglary by 9 per cent.

These trends are the result of better information being provided to the police, particularly through Crime Stoppers, and targeted, intelligence-based policing which is ensuring the judicial process can deal with these offenders effectively. It is encouraging to see such results and clearly demonstrates the work done by this Government to create a safer WA.

Over the past six months, I have been publicising these positive trends and the key role played by the Western Australia Police Service. As demonstrated by the recent poll conducted by the community newspaper group, the overwhelming majority of Western Australian citizens, 73 per cent to be precise, recognise and support the tremendous service provided by our police men and women.

The major achievements by the Police Service in 2000 provide reassurance that this community's faith in our Police Service is well founded. Since the commencement of this year police located clandestine amphetamine laboratories in dwellings at Yokine, Morley, Orange Grove, West Toodyay and Rivervale and have charged 5 people; police seized 240 grams of high-grade heroin imported from Asia, charging four people, and 413 grams of ecstasy, charging one person; police arrested and charged Laurie Dodd, a dangerous escapee from Broome prison; operation Hathor, which investigated the shooting death of Michael Wright at Mirrabooka, led to Jacqueline Hinchcliffe being charged with wilful murder; Gallipoli Taskforce detectives arrested Club Deroes member Andrew Wayne Edhouse and charged him with the attempted murder of two Coffin Cheater members and the wilful murder of Marc Chabriere; Operation Foxtrot, investigating the death of Errol Binder at Armadale, led to the arrest of a sixteen-year-old youth; schoolteacher Mark Pendleton was arrested and charged with

numerous child sex offences committed upon students at Moora, Koorda and Bindoon Primary Schools; and two major fraud offences totalling \$270 000 and \$250 000 were solved. During March, police rescued a family 140 kilometres from Lake King and a man whose car was bogged 350 kilometres east of Kalgoorlie.

Tropical cyclone Steve recently deluged on much of the north of the State and caused rivers to burst, low-lying areas to become flooded and roads to become impassable. During its aftermath, the police provided intensive coordination and support in the saving of lives and property and I commend their efforts fully on behalf of the Government.

Several members interjected.

The SPEAKER: Order! The practice of the House is in the main to allow brief ministerial statements so that we can all hear them. From time to time there is something controversial and some interjections eventuate and are, perhaps, tolerated. I am not sure what the controversy is on this. I want to hear the statement. I have indicated to the member for Midland that she has interjected a little too much.

Mr PRINCE: These stories of success represent the tip of the iceberg and are provided as an indication of the ways in which our Police Service is achieving its difficult objectives. However, the police cannot do it by themselves and continued community support is vital. Unfortunately, there is not enough community involvement in Safer WA committees at present. I urge all Western Australian citizens to take an active interest in crime prevention by joining their local committee and becoming partners with the Police Service in creating a safer and more secure Western Australia.

I table the recorded offence statistics for the December 1999 quarter.

[See paper No 787.]

STATE SUPPLY COMMISSION ACT, REVIEW

Statement by Minister for Services

MR JOHNSON (Hillarys - Minister for Services) [12.16 pm]: As members would be aware, a review of the State Supply Commission Act was concluded by the Crown Solicitor in May 1999. The previous minister subsequently established a ministerial consultative committee chaired by the member for Geraldton, Mr Bob Bloffwitch, to consult and obtain feedback on the review and to analyse comments. It is my task to address the findings of these reports and to go forward from here with new strategies to better serve the Government and all Western Australians.

The Crown Solicitor's review and the committee's report represent the latest phase in decentralising the government procurement function by devolving more responsibility and accountability to agencies. This process became official government policy in 1988. Contracting today is more complex, high value, high risk and more challenging than ever before. Both reports highlight the need for closer scrutiny, improved communication and liaison between the State Supply Commission and relevant agencies, and offer recommendations to further enhance the effectiveness and accountability of government contracting. This contracting landscape should, above all, deliver value for money services to the people of Western Australia and be conducive to the advancement of small and regional businesses in this State.

The Crown Solicitor's principal recommendations for change are that the State Supply Commission Act be repealed and replaced by an administrative framework consisting of whole-of-government contracting policies, standards and guidelines. It includes the establishment of a process review panel for complaint handling, a contracting education committee to advise on training and professional development and that all chief executive officers be responsible for contracting for their agencies. The Crown Solicitor sees the success of any framework involving devolution of the contracting function to CEOs as being heavily dependent on first raising the professional standards and competency of the individuals involved and the availability of ongoing education and training programs. The Bloffwitch report supports many of the findings and conclusions of the Crown Solicitor's report. However, it proposes an alternative implementation mechanism with the establishment of a single contracting statute that replaces the State Supply Commission Act and the Public Works Act. It also outlines the establishment of an Office of Procurement Standards to oversee goods, services and works contracting across government. Both reports advocate legislative change to deliver the structure they envisage. However, following consultation with the Crown Solicitor and others, I believe almost all key issues can be adequately dealt with in the short term at an administrative level until such time as the legislative options can be put in place.

In view of the need for rapid reform, I intend to retain the Act for the time being and to undertake a number of immediate administrative changes that include the State Supply Commission undertaking the role of a new contracting policy adviser, as recommended in both reviews; the existing State Tenders Committee take on a wider role as proposed for the State Contracting Committee; the Department of Contract and Management Services be charged with the responsibility of progressing the contracting education and training agenda; a process review panel to be established to handle complaints; and the devolution of contracting to government agencies to be contingent upon the establishment of a rigorous risk management and professional competency framework.

To achieve these recommendations, the State Supply Commission will be provided with enhanced policy, review and research capabilities. I will establish an implementation committee to ensure that the issues are addressed and acted upon without delay.

I conclude by thanking the Crown Solicitor and Bob Bloffwitch MLA for their valuable contributions to the review process. I now table the Bloffwitch report.

[See paper No 788.]

TELECOMMUNICATIONS (INTERCEPTION) WESTERN AUSTRALIA AMENDMENT BILL 1999*Assent*

Message from the Governor received and read notifying assent to the Bill.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS*Organ Donation, Transplantation and Xenotransplantation - Motion*

MR BARNETT (Cottesloe - Leader of the House) [12.20 pm]: I move -

That the Standing Committee on Uniform Legislation and Intergovernmental Agreements examine and report on developments in organ donation, transplantation and xenotransplantation, the adequacy of the Human Tissue and Transplant Act 1982 and the need for improved uniform legislation, and that the standing committee finally report to the House on 30 November 2000.

While this motion appears in my name, I will make only some brief comments, and the member for Greenough, who is chairman of the committee, will explain the reason for this motion. This motion will allow the committee to conclude some work it has been doing and to investigate other subject matter on this issue rather than simply the intergovernmental and uniform legislation aspects. On 6 April, we will be addressing the issue of standing committees of this Chamber, and also the proposed merger of the Standing Committee on Uniform Legislation and Intergovernmental Agreements and the Joint Standing Committee on Delegated Legislation, so if this motion were agreed to, the Government would view it as a one-off exercise.

MR MINSON (Greenough) [12.21 pm]: It is unusual that the Standing Committee on Uniform Legislation and Intergovernmental Agreements will be inquiring into this matter in the depth to which this motion will allow it to inquire, so I will give the House some of the background of what has taken place. Some months ago, the committee received a letter from Hon Barbara Scott, who has a particular interest in the transplantation of organs and who drew our attention to a matter that was then very current in the Press; namely, the rate of organ transplantation in Western Australia compared with the rate in the rest of Australia. She felt that the rate in this State might be the result of a legislative or procedural barrier, and that we were, therefore, the appropriate committee to look at the matter. The committee has done that, with some interesting results, and we believe that we need to go beyond the normal brief of the committee to inquire further into this matter. The committee found initially that while there was some discrepancy in the donor rate in Western Australia, in general many people are prepared to be organ donors and so signify on their drivers licence and in various other ways, and that although it does not appear at this stage that there is a legislative barrier, there have been some procedural barriers.

The committee found also that it was agreed at meetings of Health ministers in the mid-1970s that there should be some uniform approach in legislation in Australia. However, people who have an interest in this matter will probably know that when organ transplantation first started in Australia and the world, a certain amount of ethical and moral concern was raised about the procedure and whether people who were living should be wandering around with other people's organs in their body. I was not involved in that process, but I imagine that it would have been politically difficult for all Governments in Australia to agree at any one time because one of them was always facing an election. Therefore, the various States passed their own human tissue and transplant Acts, or their various equivalents, and that is also what happened in Western Australia, for better or for worse. In any event, uniform legislation was never proceeded with, even though many elements of the various transplant Acts across Australia are similar in terms of their outcome.

A matter that the committee and I found particularly interesting is xenotransplantation, which is organ transplantation from animals to humans. That matter carries with it a lot of emotional, ethical and moral baggage. In the past few years, and particularly in the past 12 months, research has been carried out into the genetic modification of animals so that they are bred specifically, and even cloned, to produce organs which the human body does not regard as being as foreign as they would have been had they not been genetically modified. The animal which is the closest in weight and size of organs to humans just happens to be the pig, and quite a lot of work has been done of late in genetically modifying and cloning pigs to produce organs that can be transplanted into human beings. That work is very promising, if we brush aside the ethical and moral considerations, because it removes the requirement for people who require kidneys, livers, hearts, lungs and so on to wait until a compatible donor can be found; and people on the waiting list who may die, not because there is no donor but because there is no compatible donor, might in the future have the opportunity to access organs from another source.

However, that matter raises some practical considerations, not the least of which is the transmission of retroviruses. Retroviruses are viruses such as HIV, which are slow-growing and may take 20 to 25 years to manifest after the virus has been contracted, and also viruses which were once thought to be species-specific but which we now know can cross the species barrier. The ABC showed a program the other night about the sheep disease scrapie, which it is now thought can be transferred to other animals, and hence also to humans. A similar disease manifested as mad cow disease in Great Britain. There is always a danger that if an organ is transferred from an animal to a human, a retrovirus may rear its head 20 or 30 years later, with disastrous consequences. We need to look at that matter in some detail.

Another question is the status of research into the storage of organs. In the early days of organ transfer from one body to another, the technology was such that the donor and the recipient had to be in beds alongside each other because there was no capacity to store the organ. However, the development of drugs for perfusing organs so that they can be stored for a limited time, perhaps 24 hours, and in some cases up to 72 hours, coupled with immunosuppressive drugs that allow organs that are genetically far apart to be transplanted successfully into recipients, means that organs can now be transported across

Australia. It means also that because of the number of immigrants who are coming into this country and the number of immigrants who are going to other countries, in the not too distant future the genetic map of the world will be much closer than it used to be and we will also have the international transfer of organs. We have a national donor register, which is in its infancy, but in a few years we may also have an international donor register and people will be able to source organs from overseas. However, that raises a lot of risks with regard to the transfer of diseases and so on. Questions have also been raised about the possibility of a black market in organs developing, in which Australia would not wish to be involved.

For all of those reasons, the committee decided that since it has the expertise and the time to inquire into these matters, it should do so. I touched on the matter of cloning technology, which is worthy of consideration on the way through. That matter was referred to us by the Select Committee on the Human Reproductive Technology Act 1991, and this technology may help us unlock the trigger that might cause an organ to reproduce itself from a cell; therefore, people may have organs grown from their own organs - as is occurring to a limited extent with liver tissue - to obviate the need for transplants.

The purpose of the exercise will be to investigate and fully appraise Parliament, the minister and his department of what might be done now with our system of transplants, the transplant rate and what is likely to happen in the future to prevent future shock, so to speak. I seek the endorsement of the House for the Standing Committee on Uniform Legislation and Intergovernmental Agreements to look at this matter and to make recommendations before the end of this Parliament. The committee will need to work hard and quickly to ensure its final report is prepared by 30 November. I seek the endorsement of the House for the motion and thank you, Mr Speaker, for your guidance, and thank the Leader of the House and the Opposition, which I understand will support the motion, for their cooperation.

MR RIEBELING (Burrup) [12.32 pm]: As the Deputy Chairman of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, I support the motion. This matter should be regarded as vital by members of Parliament - if not, it should be. The committee will look at organ transplant and the reasons for the small number of organ donors in Western Australia and how this relates to the drivers licence nomination process. Problems arise with cross-border transfer of authority. The organs from a person from New South Wales unfortunately killed in Western Australia are not necessarily available in timely enough fashion to be utilised by people on the organ donor waiting list. The huge advances in human transplants and the like need to be understood fully by Parliament and the Western Australian public, and advances in that area must be properly accessed by the Health Department of Western Australia. The study upon which the committee will embark will take a huge amount of time and effort, and I am sure the House will appreciate its report when completed.

Question put and passed.

ZOOLOGICAL PARKS AUTHORITY BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

Second Reading

MRS EDWARDES (Kingsley - Minister for the Environment) [12.35 pm]: I move -

That the Bill be now read a second time.

The objective of this Bill is to bring the legislation governing all aspects of the operations of Perth Zoo into a modern environment. As I will explain later, it covers everything from the definition of a modern zoo to finance, education, business and sponsorship. Also, the Bill underlines the Government's commitment to the Zoo's objectives, especially conservation, educating for conservation, research and providing leadership in breeding programs of threatened species from Western Australia, other regions of Australia and around the world. Perth Zoo has a proud history of achievement in conservation and education.

I now outline the background and the reasons for the changes. In October 1998, Perth Zoo celebrated 100 years as one of Western Australia's most loved attractions. The Zoo has welcomed visitors every single day since 17 October 1898, and has operated from the same South Perth location all that time. Despite two world wars and the Great Depression, the Zoo has always opened for Western Australian families. Few Western Australians do not have a special memory of a visit to Perth Zoo. In turn, they revisit with their children and ultimately with their grandchildren.

Today's Zoo is a dynamic and vastly different place from that of its early history. As well as being a centre for conservation, research and education, it is now an important tourism attraction for Western Australia. Recognition of this important role has come in the form of successive awards as the best major attraction in the Western Australian Tourism Awards in 1998 and 1999.

Perth Zoo's gardens have been developing for a century, providing a popular and attractive setting for exhibits. The Zoo is home to what is arguably the best collection of palm species in Australia. Today much of the botanic estate has been planted to replicate natural habitats, which contributes much to the understanding of wildlife and its environment. A large amount of what is grown in the Zoo is harvested as food for native and exotic species. This special environment, and the great care that is taken of it by Zoo staff, led to the 1999 award as the best recreational venue by the Keep Australia Beautiful Council.

More than 200 exhibits and 300 different animal species now require more than 100 full-time staff and an annual operating cost of over \$10m. The changes made by the Zoo have been thoroughly welcomed by its customers. The Zoo enjoyed an all-time record attendance of more than 635 000 visitors in the financial year 1998-99.

The virtual Zoo became a reality on World Animal Day 1997 when Perth Zoo's web site was launched. Since then, the site has undergone continuous improvement winning an international award for Zoo web site excellence. The Internet has allowed the Zoo to take its information and conservation education messages to schools for which, because of distance, a Zoo excursion is out of the question. As well, it provides information on rare but important Australian species that are part of conservation breeding programs.

Perth Zoo plays a leading role in research and breeding programs for many threatened native species. Key partnerships to achieve this outcome have been developed with not only other Zoos, but also several universities and a number of government agencies, like the Department of Conservation and Land Management. As the Bill will allow the Zoo to participate in federally funded, cooperative research centres, it is appropriate to consider achievements already made by its native species breeding program, which is central to Perth Zoo's research activity. Although some threatened Western Australian species were already involved in breeding programs, the launch of the native species breeding program in 1997 gave them greater focus. Application of scientific disciplines to existing animal husbandry excellence led to successful conservation breeding programs for our State's mammal emblem, the numbat, as well as for the chuditch, the southern dibbler and the Shark Bay mouse.

Led by a research director with extensive wildlife scientific experience and international respect, Perth Zoo's research program now provides an important platform for many postgraduate students to complete practical research. In 1999, 20 research projects were in progress in areas like reproductive biology, conservation genetics and behavioural biology. This provided invaluable opportunities for four PhD students, one masters student, six honours students and many undergraduates.

Perhaps one of the greatest achievements for a zoo is when animals born in conservation breeding programs are released into wild habitats. Perth Zoo can be proud of its achievements in this regard. In 1998-99, more than 150 Zoo-bred Western Australian native mammals were released. In conjunction with the Department of Conservation and Land Management, numbats, chuditchs, southern dibblers and Shark Bay mice bred at Perth Zoo were reintroduced to native habitats. As well as these mammals, 55 Zoo-bred western swamp tortoises were reintroduced by CALM into predator-proof habitats at Ellenbrook and Twin Swamps in 1999. Perth Zoo's success with its conservation partners in the rescue of the western swamp tortoise from the brink of extinction is world famous. Following each year's hatchings, there are still more western swamp tortoises living in Perth Zoo than anywhere else on earth. On World Environment Day 1998, I was privileged to launch the only exhibit of western swamp tortoises in the world at Perth Zoo's Australian wetlands exhibit. This is a powerful example of the Zoo's commitment to conservation and education. Since then, nearly one million visitors have seen these precious Western Australian animals and have had the chance to learn about the conservation partnerships that led to their survival.

Not just native Australian and Western Australian species have benefited from the Zoo's bank of experience in the intensive management of small populations of threatened species for long-term conservation goals. Perth Zoo has taken a leading role in global conservation breeding programs, and has achieved some notable breeding successes in recent years. With one of only four zoo-managed breeding pairs of silvery gibbons in the world, Perth Zoo achieved breeding success in 1995 and 1998. Fewer than 2 000 of these critically endangered primates are left in their home range in West Java. These Perth-born offspring are set to play an important role in international breeding exchanges in the future.

In March 1998 I had the pleasure of announcing the birth of twin Nepalese red pandas. Their birth began a new bloodline in the Australasian region for this endangered species. In fact, the breeding pair produced twins again in 1999 and in 2000. This is great news for the species and is testimony to the world standard of species management in place at our zoo.

All tigers in the wild on Earth are under threat. In the twentieth century three tiger subspecies became extinct. It is estimated that only 400 Sumatran tigers remain in the wild. Perth Zoo acquired a genetically matched female in 1999 to breed with the male which arrived from Melbourne in 1994. With the female now at breeding age, Perth Zoo is set to realise the goal of achieving breeding success and making an important contribution to the future of these magnificent but critically endangered animals.

Australia's only breeding program for the Rothschild's giraffe has led to the birth of five calves since 1995, with two more due in the first half of 2000. Animals from Perth Zoo's successful program are being used to establish further breeding herds in Australasia. It is not just in the area of breeding and species management that Perth Zoo has had great success. The development of new exhibits which provide animals with habitats based on their natural environments give zoo visitors a deeper appreciation of wildlife and the importance of habitat to their survival.

Through a series of initiatives the Zoo has extended its appeal to visitors and broadened its market base in the past five years. On a series of Saturdays in summer the now hugely popular Zoo Twilights are held. This is when the Zoo stays open until early evening followed by a live music concert. Zoo Twilights provide opportunities for visitors to see their zoo in a different light.

On the centenary of the opening of Perth Zoo in October 1998, I launched Western Australia's first night zoo. The Zoo now opens on selected nights in school holidays in spring, summer and autumn. It is the only zoo in the world lit by natural gas. The Zoo has become a more dynamic organisation and remains relevant to today's environment, despite operating under an Act which is outdated for the operation of a modern zoo.

The Zoological Gardens Act 1972 is only eight pages long and consists of just 14 clauses. It has not been reviewed for over 25 years. Today many of the existing provisions would not withstand scrutiny of the powers and functions of the

Zoological Gardens Board. The Act has an unclear statutory basis to allow the board to pursue its vision to create and operate a world-class zoo integrating conservation, education, research and recreation.

The Bill before the House would -

- provide a definition of a modern zoo;
- enable the Zoo to participate in its own right in the federally funded cooperative research centre for the conservation and management of marsupials or in future CRCs;
- recognise the educational role of the Zoo in the community;
- enable the Zoo to enter business arrangements for profit;
- enable the Zoo to expand to other geographical locations and varieties of premises;
- enable the board to appoint committees to assist it in the performance of its functions;
- provide clear statutory powers with respect to the issuing of infringement notices for breaches of the zoological gardens by-laws, and the removal, detention or prosecution of offenders.

Revenue: The Zoological Gardens Board recognises that it operates in an ever-increasing competitive environment for discretionary leisure expenditure. In 1995, following the Government's endorsement of its business plan, the Zoological Gardens Board embarked on a five-year capital works program that would substantially change the face of the Zoo. The improved attractions were designed to increase the Zoo's attraction to local and tourist markets and increase the overall attendance. The new Bill will provide a clear statutory basis to -

- borrow funds externally for development purposes in line with the Zoo's master plan and business plan;
- invest any sponsorship, fundraising and net profits in an appropriate short and long-term manner;
- enter into business arrangements for profit sharing;
- in addition to the entry fees, charge a fee for services provided in connection with the zoological parks and gardens controlled and maintained by the board;
- operate under and use more than one trading name.

The proposed zoological parks and gardens Bill demonstrates this Government's commitment to the Zoo's objectives and the very important conservation, research, educational and recreational contribution it makes. The new Bill will -

- remove the ambiguities and limitations of the current Act;
- increase the number of board members by one;
- provide the statutory basis and enabling powers for the Zoological Parks and Gardens Board to -
 - participate in federally funded cooperative research centres in its own right;
 - expand into other geographical locations and varieties of premises in the future;
 - enter into business arrangements for profit sharing;
 - provide a world-class zoological facility through efficient modern-day business practices and administration, without diminished accountability and openness.

The new Bill provides for a review of the operation and effectiveness of the legislation within five years of its introduction.

Relationship to existing legislation: Consequential amendments will be required to other Acts as a result of a change of name of the board and the change of the title of the Bill. Consequential amendments are required to the following Acts -

- Constitution Acts Amendment Act 1899;
- Financial Administration and Audit Act 1985;
- Public Sector Management Act 1994;
- Government Employees Superannuation Act 1987;
- Prevention of Cruelty to Animals Act 1920.

This Government's aim is to ensure that our zoo continues its important education, research and conservation work while at the same time maintaining a safe, value-for-money community and tourism recreation venue. For over 101 years Perth Zoo has never closed for a single day. It is appropriate therefore that we have legislation that will allow its continued efficient operation through the twenty-first century, allowing future generations to make their own memories at Perth Zoo. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 1998*Second Reading*

MR BARNETT (Cottesloe - Leader of the House) [12.47 pm]: I move -

That the Bill be now read a second time.

This is the fourth Bill introduced by this Government to revise the statute law by repealing spent, unnecessary or superseded Acts and by making miscellaneous minor amendments to various Acts. Its aim is to make Parliament more efficient by reducing the number of amending Bills dealing with relatively minor legislative amendments and repeals. Amendments and repeals included in the Bill are required to be short and non-controversial. In addition, they must not impose or increase any obligations or adversely affect any existing rights.

The Bill contains amendments and repeals initiated by ministers and also contains recommendations by the Parliamentary Counsel's Office for miscellaneous clerical corrections and amendments discovered when drafting other Bills or compiling reprints of Acts. The Bill has been referred to the Standing Committee on Legislation for detailed consideration. The committee reported on the Bill in June 1999 and made 19 recommendations. The recommendations were agreed to by government and the three appropriate amendments were made to the Bill in the Legislative Council.

I will outline some of the specific provisions of the Bill. It provides for the repeal of the Dried Fruits Act 1947. This Act contains a large number of redundant restrictions and has been inoperative for some years. Its repeal is consistent with policy related to regulatory reform. Legislative review of the Act for compliance with national competition policy principles included consultation with the Dried Fruits Board of WA, the Australian Dried Fruits Association, a number of Western Australian growers and the Swan Settlers Packing House. The Dried Fruits Board agreed to cease operations from February 1998 and appointed a caretaker subcommittee until the Act is repealed. All parties agreed to return any surplus accumulated funds to the Australian Dried Fruits Association (WA Branch) when the Act is repealed.

The Bill also repeals the Snowy Mountains Engineering Corporation Enabling Act 1971, which was enacted to enable the Snowy Mountains Engineering Corporation to carry out work for the State Government and for private organisations in Western Australia. In the previous year the Commonwealth had passed an Act to establish the corporation in order to preserve the expertise created during the development of the Snowy Mountains hydro scheme, particularly the construction team comprising experts in tunnelling and matters relating to hydraulics. In 1989 the Snowy Mountains Engineering Corporation was converted to a public company and was privatised in 1993. The State Enabling Act, which has never been used, has become redundant and should now be repealed.

The Wundowie Works Management and Foundry Agreement Act 1966 is repealed by the Bill. The 1966 Act was to come into operation on the day the Wood Distillation and Charcoal Iron and Steel Industry Act Amendment Act 1966 came into operation. This did not occur and the latter Act was subsequently repealed in 1991. Therefore, the Wundowie Works Management and Foundry Agreement Act has never been operational and should be repealed.

The Bill amends the Beekeepers Act 1963 in order to permit a person to use a disposable bee tube for pollination of crops for a limited period of eight weeks without the need to become a registered beekeeper. Research has shown very large increases in production of fruit and improvement in quality after using pollination techniques, and demand for the bee tube device is expected to expand dramatically.

The Bill also makes a number of amendments to the Electricity Corporation Act 1994, including changing the name of the corporation to Western Power Corporation, thereby making the Act consistent with the corporation's corporate name. This change will not affect the corporation's corporate identity or its rights and obligations.

The Strata Titles Act 1985 is amended by the Bill to correct an unintended consequence of the universal application of the resolution without dissent rule in strata management. In the case of two-lot strata schemes, it was intended that rule amendment be by unanimous resolution rather than by one owner calling a meeting, and then leaving it open for it to be argued that a resolution without dissent has been passed if the owner does not attend a subsequent meeting. The change returns duplex owners to their previous position but allows a majority of owners to administer in larger developments. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 2000*Third Reading*

MRS EDWARDES (Kingsley - Minister for Labour Relations) [12.51 pm]: I move -

That the Bill be now read a third time.

MR KOBELKE (Nollamara) [12.52 pm]: The Minister for Labour Relations has indicated that she will respond to my brief remarks in the third reading debate of this Bill. I need to say again that the Workers' Compensation and Rehabilitation Act contains a range of major problems. The system is not working as one would hope, either from the employers' point of view, because they are having to pay an unacceptable level of premiums in many cases, or from the injured workers' point of view because of the complexity of the system and the denial to workers of a range of benefits which were previously available in the system. Without going back over the details which were outlined earlier in the debate, we have major problems with the workers compensation system in this State.

This Bill fixes up one problem which was created by the Government's changes last year. It does that in only a limited way. It does not address a range of outstanding matters relating to how injured workers access common law under the Act as it will be amended. It is regrettable that the Government is fixing up only one minor issue. The minister accepted an amendment in part, and there was good sense in that. However, I moved that we should allow a period of 21 days from the determination by WorkCover before a person loses any right to elect. The minister said she would only accept 14 days and that amendment was accepted. That is an improvement, but I found it difficult from my perspective, which may be seen to be biased, that the minister did not have any arguments against 21 days as the extension. The minister's point of view did not amount to an argument of any substance for why that should not be 21 days. I will not go back over the arguments but that reflects part of the underlying problems we have had in the handling of a range of problems with workers compensation; that is, it has been a bureaucratic view of how the system would work. I do not see why the minister would not allow that extension to 21 days unless there were very good arguments about the problems that arose because of that. The minister has brought forward the argument that it is administratively tighter and better to keep it to 14 days rather than 21 days. I do not seek to misrepresent the minister, but that was the fundamental basis of the minister's argument. If that is true, it reflects the view the minister has taken over most of these changes; that is, she has let the bureaucracy keep control of the process rather than look at the fundamental issues and how best to address them and what are the real facts in deciding whether a change such as 7 days to 14 or 7 to 21 is the best arrangement. I am disappointed the change is to be 14 days and not 21 days, but it is better than seven.

I point out that so many of the Government's changes have not worked in any major sense, and have created other problems. That is because its whole approach to the workers compensation system has been too limited and narrow-viewed and the major changes that took place last were about simply restricting benefits and not looking at the range of issues in any real way. Again the amendments contained in this Bill have been narrow in focus, and do not address other matters that could have been brought forward. The Bill shows a narrowness of view and we do not gain anything. We could have produced in this limited area a better amending Bill if we had gone to 21 days, which I had suggested. That would give injured workers a fair opportunity to elect when they are caught in the difficult situation of having to forgo any statutory benefits they might have if they elect to take action at common law. In that way they run the risk of potentially no gain at all through a common law action, because they will have to establish negligence and other factors in their case for the purposes of the court and only have available to them a capped amount of awarded damages. In those circumstances few workers would be better off electing to go to common law. That was part of the Government's strategy last year to close down access to common law.

I acknowledged from the start that there was a need to restrict access to common law. I have great difficulty with the way it is restricted in terms of fairness and the complexity of the process. It is because of those issues that individual workers are asked to make fundamental decisions within a short time after being notified that they are able to elect because of their degree of body disability. That is decided in the Act and we were dealing with the period of time after that determination in which they were able to make the election. The Opposition would prefer 21 days, but we acknowledge that 14 days is better than seven days. The way in which the Government handled that amendment is symptomatic of the narrow view it has taken of those issues. In doing so, it has failed to address the fundamental issues which are not working in our workers compensation system. It will mean coming back with more legislation this year or next year to try to fix up the major problems in the system.

MRS EDWARDES (Kingsley - Minister for Labour Relations) [12.58 pm]: The purpose of the legislation was to clarify the original intent to ensure that injured workers are not precluded from making an election when a matter that has been properly referred to the court has not been agreed or determined before the termination date. The changes will remove an unintended anomaly which could arise due to the current time frames for processing a matter regarding the degree of disability that has been referred to the director. Those changes provide that even if there is a delay in processing a matter referred to under section 93D(6), the worker will always have 14 days after a matter properly referred is agreed to or determined in which to make an election, even though the resolution of the matter may occur after the termination date. Although the Government believes that seven days is appropriate, because of the points made by the member for Nollamara, it has agreed to extend the period to 14 days in an endeavour to ensure that any problems with the administrative process could be addressed. The mere fact that injured workers have had an opportunity long before this to consider in detail all the necessary information they would need to consider, such as proper legal and accounting advice and advice on the issue of disability prior to this time, means they would not be disadvantaged.

It must be emphasised that these amendments and those passed last year are only one step in the Government's overall commitment to improve the workers compensation system. As recommended by the Pearson review, which was a great initiative in providing a framework for making changes for the future, the other key areas of concern are being reviewed with a view to further amendments if necessary. The review of medical and associated costs will recommend ways to ensure that injured workers receive appropriate medical treatment and that all service providers are accountable for the nature of medical services and other associated costs.

The review of insurance arrangements will ensure that employers get a good deal, will provide flexibility in the system to negotiate premiums and will establish appropriate management practices for the handling of claims. The Western Australian injury management initiative, combined with a WorkSafe plan to provide a safer workplace, will benefit both workers and employers in the prevention of injuries and the management of injuries if they occur.

Furthermore, as part of the Government's firm commitment to examine each of the cost components in the system and consider ways of reducing them, I have arranged for analysis of legal costs in the workers compensation system. That

analysis will seek to determine whether the increase in legal costs that I identified during the second reading debate is a result of the transitional common law arrangements or whether changes need to be considered in that area.

This Bill is a small but important step in ensuring the workers compensation system operates efficiently and fairly for all participants. I commend the Bill to the House.

Question put and passed.

Bill read a third time and transmitted to the Council.

PLANNING APPEALS BILL 1999

Consideration in Detail

Resumed from 28 March.

Clause 17: Investigation of appeals -

Debate was adjourned after clause 17 had been partly considered.

Mr KIERATH: I move -

Page 11, after line 14 - To insert after subclause (2) -

- (3) When deciding how to conduct an investigation an Assessor is to have regard to any representations made by the parties in that regard.

The amendment seeks to ensure the assessor does not hold a formal hearing if the assessor has not responded to the needs of the individual parties.

Ms MacTIERNAN: The Opposition supports the amendment moved by the minister. I note that it was recommended by the WA Municipal Association. It is one of about half a dozen amendments WAMA advocated be made to this clause. I note that the minister has chosen to move this most modest amendment that will at least mean that in determining the procedures the assessor must have regard to some input from the parties. That is a minor improvement of the system, which the Opposition will not oppose. However, it does not deal with the substance of the problem in this clause. I will discuss that when I move my amendment.

Amendment put and passed.

Ms MacTIERNAN: I move -

Page 11, after line 14 - To insert the following -

- (3) Notwithstanding anything in subsection (2) the Assessor must provide to all parties to the appeal -
 - (a) the name and address of the person with whom the Assessor has discussed the appeal, the capacity in which the person was included in the investigation and the nature of the discussions;
 - (b) copies of all written submissions and documents considered by the assessor in investigating the appeal; and
 must provide all parties the opportunity to respond to matters raised in such discussions and documents.

We seem to be having this debate ad nauseam. However, I refer to the principles of natural justice, which the minister claims are provided for in this legislation. Can we imagine a situation in which, during a court case, the judge was able to whip around and speak to anyone he cared to without our having the right to know to whom he had spoken, the evidence that had been collected or what had been said against us, so that we did not have the capacity to respond to information given to the judge who, at the end of the day, would be writing a report?

The same process will apply under this Bill. Effectively assessors will have carte blanche in investigating matters. No doubt, as occurred in relation to another clause last night, the minister's argument will be that this is what already occurs in the ministerial appeals system. The minister seems to be labouring under the illusion that the only problem with the ministerial appeals system is that the minister is involved. However, if the minister had listened to any of the critics of the ministerial appeals system, he would have understood that the problem was that principles of natural justice and openness and transparency do not exist, quite aside from the nature of the minister's involvement. However, the various people who have argued against ministerial appeals have obviously been unable to get the minister to understand that the issue goes to the core of the system we should be establishing.

I reiterate that all the industry players are opposed to this key provision. It is setting the scene for a kangaroo court. The people involved simply will not know what information is being taken into account and who has had input into the process. People will not know what has been said about them and they will not have an opportunity to respond. It is a completely one-sided process. In this amendment the Opposition seeks to ensure there is some openness and transparency in this

process. The amendment does not fully solve the problem, but goes part of the way so that at least the assessor must advise both sides of the people with whom he has had discussions. What possible justification could the Government have for the assessor not to be obliged to tell both parties of the people with whom he has spoken? Also the assessor will be required to state the capacity in which that person was included in the investigation and the nature of any discussions. Without this amendment, we would have absolutely no idea of the people to whom the assessor has spoken.

Most importantly for that other component - the rule of natural justice - this amendment would ensure all parties had an opportunity to respond to matters raised in those discussions and documents. I know the minister will say that it is not a problem and did not happen under the ministerial appeals system. It will be the old Royal Automobile Club defence that it will never happen. It is nonsense. The minister is proposing to set up a system that no-one in the industry believes is acceptable. This amendment will go part of the way towards restoring the rules of natural justice in the conduct of the assessor.

Mr KIERATH: I do not accept the amendment and I will give reasons for that. First, it is not necessary. The assessor is required to act in accordance with the rules and principles of natural justice, and I draw the member's attention to clause 40(2)(b) which places an obligation on the assessor while mediating or investigating an appeal to be impartial and act in accordance with equity, good conscience and the principles of natural justice. This aspect is already covered.

It is anticipated that a full exchange of documents will be part of that process and the response time will comply with the various principles of natural justice. People would not be expected to respond to documents dropped on them within a brief period. The process is designed to be as informal as possible while, at the same time, allowing for those principles established in clause 40(2)(b) of equity, good conscience and natural justice. The process is designed to be informal and as user-friendly as possible. When those aspects are already included as part of the Bill before the House, I see no reason to duplicate them because that could cause complications. The member for Armadale is right in one respect; I believe that if an assessor is operating under those provisions, people will get natural justice from this process.

Ms ANWYL: Last night I had the pleasure of being in the Chair for about an hour, and I heard much of the debate on clause 16. These principles are essentially the same as those for which the member for Armadale is arguing. Although the minister says that it is unnecessary, the Opposition thinks it is totally necessary to further define the principles of natural justice in the legislation because clause 40(2)(b) does nothing more than make a blanket statement about what the assessor must do. The problem is that if the assessor's actions are not open to public scrutiny, we shall never know whether he has informed himself or herself. It is not a matter of questioning the bona fides of the assessor but, through sheer inadvertency, the assessor may not be able to inform himself properly or not give one party the opportunity to respond to allegations or matters raised against them. One could of course paint a much more disturbing scenario of malicious parties acting against one another. During my 10 years experience as a legal practitioner, some of the most vicious disputes in which I was involved in a litigious sense were concerned with simple issues such as branches hanging over fences, natural light being blocked by a particular development, loss of amenity and so on. These are extremely emotive issues and if people have money, they will litigate. Of course, many people in the community do not have access to funds for legal practitioners and the like, but many do and the Supreme Court has certainly been involved in those sorts of disputes. It is important to recognise that there will be malicious parties and people will make various statements to the assessor which may be totally untrue. The assessor is just a human being and is not infallible. The assessor may make mistakes inadvertently, and all manner of things may come into play. Let us hope a minister would never interfere in an inappropriate way, but it could happen. It is a possibility, and it is no use the member for Hillarys shaking his head.

Mr Johnson: Not our minister.

Ms ANWYL: It may not be a minister on the coalition side of politics, because we are about to have a change of government and it could be a minister on our side.

Ms MacTiernan: There are plenty of examples of ministers on the coalition side doing it.

Ms ANWYL: I am sure it has happened over the years. This amendment is about providing safeguards to the people affected. It sets out those basic rules of natural justice that need to be applied.

Clause 16, which has been postponed, was about providing for certain submissions to be made, of which the parties to the dispute would not receive details. The Opposition is ensuring that some basic natural justice is applied, and that this will be good legislation. We do not want to amend this legislation again in future. The other main difficulty is that if an assessor talks to many other people and does not make it clear to the parties involved who has made submissions or had informal discussions, the system will be unworkable. That has partly happened in another tribunal over which the minister has presided in the WorkCover instance. Review officers and the like are telephoning doctors and who knows what is said during those conversations? The workers do not find out. Perhaps this is the minister's hand print over this legislation all over again. Most importantly, clause 40(2)(b) does not provide for those natural justice rules in anything other than generalities.

Mr KIERATH: I have covered most of the points previously. I can add to my previous comments only that the assessor's report is not the final be-all and end-all. It then goes to a panel of people with extensive experience in this area, who look at the assessor's report and vet it. If anything untoward occurred during that process, hopefully it would be picked up. In many cases the recommendations are modified by the panel considering the report. I would be the first to acknowledge that the reports are not always 100 per cent accurate. However, currently the assessor speaks to all the parties and shares the information generally with them. The objectives which the Opposition is trying to achieve with its proposed amendment

are occurring in practice. Clause 40(2)(b) spells out clearly the way in which the assessor will conduct the process. I have answered most of the issues raised by the member for Kalgoorlie and I do not want to repeat myself for the sake of it.

Ms Anwyl: What about a situation in which, through inadvertence, someone who should be spoken to is not? You would never know who exactly had been involved.

Mr KIERATH: That occurs now in practice. Issues are raised when a report is received by the panel and on occasions, if we are not satisfied with the report, we return it to the assessor with a request for further investigation and information.

Ms MacTiernan: That does not happen in the tribunal and you are abolishing the tribunal.

Mr KIERATH: In most cases the assessors provide accurate reports.

Ms MacTIERNAN: Again, the minister is taking the status quo of ministerial appeals as the model and yardstick, whereas the tribunal should be the model. As I have said time and again, we are entrenching all the undesirable aspects of ministerial appeals across the system. I will ask the minister a couple of detailed questions as the second reading debate obviously is an important interpretive tool when there is an ambiguity in the legislation. I want to explore the way in which the minister believes clause 40(2)(b) covers the amendment.

Mr Kierath: That is interesting. One of your members said that it did not count any more.

Ms MacTIERNAN: No, we did not say that; we were referring to an ambiguity. There will be an ambiguity with this clause because the system is contradictory to the principles of natural justice. The minister said that the system would be subject to certain principles, but the details of the structure to be implemented are contrary to those principles. There will be an incredible ambiguity in the proper process to be followed which will have to be resolved by the courts. It is important for the minister to clarify this matter, bearing in mind that our amendment seeks to ensure both sides are informed about to whom the assessor has spoken and of the nature of those discussions. The minister said that it is not necessary because it is already covered by the Bill. Can the minister expressly clarify that the operation of the rules of natural justice would require an assessor to hand over to both parties the name of anyone with whom the assessor had discussions, the capacity in which that person was involved in the discussions and the nature of the case made by that person? Can the minister reiterate what he understood would be required by virtue of clause 40(2)(b)?

Mr KIERATH: The member for Armadale goes through a process of saying a form of words and never listens to the words I have said. I do not know why the member for Armadale is repeating herself over and over. I have already said it and I had some notes to which I referred at the time. Perhaps the member was studying another part of the Bill and preparing for another point and did not hear me.

Ms MacTiernan: No.

Mr KIERATH: If the member for Armadale heard me, why is she asking the question again?

Ms MacTiernan: I want the minister to clarify expressly that he believes section 40(2)(b) would require the assessor to disclose to each of the parties the names of all the people with whom he had discussions, the nature of those discussions and the capacity of the person involved in the discussions.

Mr KIERATH: Unfortunately we are not debating clause 40(2)(b); I wish we were because there are other parts to that clause upon which the assessor must act. Clause 40(2)(a) states that while mediating or investigating an appeal an assessor is to act with as little formality and technicality as possible - this is the key - while abiding by the principles of equity, good conscience and natural justice. I do not want to insert in the Bill a legal trip-up mechanism which, if not followed to the absolute letter, would cause someone to have grounds for overturning a decision. I said that I expect the assessor to share the information, discuss the matter with the parties and fully document the exchange in that process. However, the dilemma is: Do we insert into an Act all those technical steps or do we require assessors to abide by the principles of natural justice? This clause requires assessors to abide by those principles without setting up legal technicalities which could trip them up.

Ms MacTiernan: Legal technicalities like the rule of law?

Mr KIERATH: As I said before, this stage is not the final determination. A panel of people with extensive experience will assess the report and make changes. I have covered the points raised by the member. I expect a reasonable response time will be allowed for replying to documents, document exchange will occur, all the information will be shared by the parties and the assessor will abide by clause 40(2)(b).

Ms MacTIERNAN: In failing to answer the questions I posed, the minister has shown himself once again to be a complete and utter charlatan.

Mr Kierath: I have answered the questions in detail. You just don't listen.

Ms MacTIERNAN: No, the minister did not. The minister has come into this place with this Bill which states that people operating under this legislation will abide by the principles of natural justice and the Australian Labor Party does not need the clauses it has sought to introduce by way of amendment as they are already covered. When we sought to tie down the minister on his view that the principles of natural justice would require an assessor to advise each party of the capacity of the people with whom the assessor had discussions and the nature of those discussions, the minister did an absolute backflip; he would not say that. He went back to the old RAC defence that it will never happen and it will not be a problem.

The minister cannot have it both ways. He has again acknowledged that he is not prepared to give these principles of natural justice any meat whatsoever. This piece of legislation is an absolute abortion. At one level it espouses certain principles and at another level encompasses structures that are completely contrary to those principles. If this piece of rubbish that we have been presented with today ever gets through the Parliament and is assented to, the minister will have an absolute nightmare in the courts. This legislation will be worse than the debacle we have seen with his workers compensation legislation; it will be an absolute minefield. Not only the Australian Labor Party but also every stakeholder in the industry says that the legislation is unworkable. The problem is that the minister is trying to install a ministerial appeals system across the board which people do not accept. They accept the fact that the tribunal must be changed and there must be a hierarchy of responses, depending on the nature of the matter being appealed. However, they do not accept Rafferty's rules in a kangaroo court, with assessors, panels and ministers racing around not telling anyone what they are doing, collecting secret information, making secret reports and stating that the process is acceptable. The minister should bear in mind that one of the other features of this Bill that we will reach soon is that the assessor's report will not be made available to the parties. The parties do not have access to the assessor's report; they will have no idea what that report contains, and we know that the assessor does not need to put everything in the report. The Government is creating a complete and utter mess. This is not just wrong around the edges; it is fundamentally flawed. I cannot believe that this Bill got through Cabinet. I cannot believe that ministers Foss and Prince looked at this legislation and allowed it to pass. They will be condemned. They are intelligent people with some understanding of the rule of law and it is extraordinary that they let this go through to the keeper.

Ms ANWYL: The member for Armadale, I, the Parliament and the people of Western Australia are entitled to some rationale from the minister about how clause 40(2)(b) will operate. It is not enough for the minister to say clause 40(2)(b) exists and it will provide for natural justice. The rules of natural justice apply anyway; we do not need a clause to say that. Of course they apply; they apply as a matter of law. I am not sure that what the minister is trying to say has been added to this legislation by the inclusion of clause 40(2)(b). On my reading of the words it adds very little. I am sure that when we debate that clause, we will have many more questions for the minister.

However, in relation to the matters raised by the member for Armadale, it is vital that the minister charged with the conduct of this legislation give us some insight into how this will operate. All members of Parliament, whether or not they are in Cabinet, receive many approaches from constituents about how these things work. I have had the opportunity both as a legal practitioner and as a member of Parliament at different times - I have not done both jobs at the same time - to advise people about what they should do. It is always necessary for them to consult lawyers in this specialised field but, as the member for Armadale said, this will probably make the workers compensation debacle look good given the sorts of things which will be raised as a result of processes here. The amendment is not asking for each and every detail and a transcript of any comments be made available. However, it is asking that, at the very least, the parties to the appeal be entitled to know the names of the people with whom the assessor has discussed the appeal, the capacities in which those people were included in the investigation and the types of discussions which took place, and for copies of written documents which the assessor has considered. The point of the amendment is very simple; it is to enable one to respond to allegations which may be made. There could be issues of inadvertence, maliciousness or other things if we had a minister who was interfering in these matters. It is a basic principle that parties are entitled to this information.

On the one hand the minister is holding up clause 40(2)(b) and saying that natural justice applies anyway, but, on the other hand, he is not prepared to have these basic tenets of natural justice apply. The minister cannot have it both ways. He needs to spell out why he does not believe the parties involved in the appeal should be made aware of the evidence gathered by the assessor. Why is the minister so protective of that information? We are not talking about a child welfare investigation where, as a matter of public policy, one does not tell people who made the complaint because one does not want the public at large to stop making complaints through fear of retribution. It is not that kind of situation. We are talking about town planning appeals, and it is important that people be informed as to what on earth the minister is basing his decisions on.

Mr KIERATH: I do not propose to keep repeating myself. The member for Kalgoorlie's line of logic is an absolute classic. She has argued that clause 40(2)(b) is not required in the legislation because the principles of natural justice apply in any event. That is what she said. Then she turned around and argued as to why we should repeat it, when we have put it into this legislation; it is in clause 40(2)(b). On one hand the Opposition is arguing that the clause is not strong enough and does not do what the Opposition wants, so it wants to duplicate the provision and put it in here in a prescriptive form, while, on the other hand, when I look down the Notice Paper at further amendments the Opposition has foreshadowed, I find it has used exactly the same words as appear in clause 40(2)(b).

Ms MacTiernan: We will explain that.

Mr KIERATH: Yes; at the bottom of the second page of amendments the member for Armadale's amendment states -

The Planning Appeals Panel must be impartial and must act in accordance with the rules of natural justice, equity fairness and good conscience.

There we have the stupid logic which the Opposition is trying to peddle today. On the one hand it says that we have it in the Bill and it is not good enough, but, on the other hand, the Opposition seeks to insert those same words into various other provisions. I have said that I believe clause 40(2)(b) is an umbrella provision which spreads right across the actions, powers and duties of assessors. Therefore, it is not necessary to prescribe it in detail in various provisions. If I were to accept what the Opposition said, I would create a situation in which, if somebody did not follow the provision to the absolute letter of the law - not the principle - it would provide a vehicle for someone to try to overturn it.

The member for Kalgoorlie admitted that some of her most vexatious issues have been between neighbours and we sometimes get those as well. We want fair and equitable decisions to come out of this, not a series of legal trips which people can use as their own legal plaything. We already have the choice of the tribunal, which is a highly legal mechanism. It is fascinating that although the tribunal is highly legal in its structure, when I became minister the chair of the tribunal came to me and said that he realised the tribunal had been too technical and too legal and that he wanted to make it more informal. He sought my approval to introduce mediation into the tribunal - something which I thought should have been done 10 years ago. The member for Kalgoorlie says that she thinks I am encouraging mediation in decision making and she is dead right; I am. If we try to get people to agree, we have people walking away happy. If we impose an adversarial system, one party walks away unhappy. The member is dead right; if there is any chance of getting parties to agree, I will do whatever I can to get an agreement between those parties, without doubt. People have had a choice between a highly legal system and a very informal one. Members opposite do not seem to understand that 90 per cent of people choose the informal system - people have been voting with their feet for a long time.

I have put the Government's position on the record. I am convinced that the words cover the activities of the assessors. There is not much to be gained by repeating the matter ad nauseam, but the member for Kalgoorlie raised another aspect which I wanted to put on the record.

Amendment put and a division taken with the following result -

Ayes (18)

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

Noes (24)

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

Pairs

Mr Grill	Mr Cowan
Mr Riebeling	Mr Board
Mr Bridge	Mr Pandal

Amendment thus negatived.

Ms MacTIERNAN: I move -

Page 11, lines 15 to 17 - To delete the lines and substitute the following -

(3) Hearings and inspections conducted under subsection (2) are open to the public.

It is very important for members to understand not only that planning matters impinge upon the appellants and the respondents to an appeal but also that in many instances - such as the Nutri-Metics case - there is a broad community interest in the outcome and in ensuring that the matters are properly canvassed. It is important not only in terms of the rules of natural justice but also because, unlike much other litigation, this is something of broader community interest. We have planning laws because we recognise that the community at large has an interest in what people do with their personal property. We do not accept the principle that if a person owns land, he should therefore have the right to do whatever he likes on that land. The notion of planning laws and planning schemes is predicated on the understanding of a broad community interest in imposing certain restrictions and constraints on what a party can do with his own land. Therefore, it is important to recognise that in the decision-making process there be a system whereby that community can at least know what has gone on.

I admit that the minister's committee currently does not have open hearings. However, the far more relevant yardstick is the Town Planning Appeal Tribunal. All the tribunal hearings are open, and that is the path we should be following because we should not be trying to entrench the system currently in vogue with ministerial appeals.

The level of sophistication in our democracy is now much greater. What people require in terms of openness and involvement has increased very substantially. It would be unacceptable in today's society for hearings on matters that vitally concern the community to be conducted in secrecy. That concern is not related to a direct pecuniary interest but to the impact such a decision might have on amenity or quality and enjoyment of life. The minister keeps saying that the only problem with the ministerial appeals system is that the minister is still involved. That is not correct. The system does not provide for the degree of openness that is not only a necessary part of the rule of law in our country, but also of the growing

demand by our citizenry to be more deeply involved in decision-making processes. I ask the minister to consider this and to explain why hearings conducted by the assessors should be held in private.

Mr KIERATH: For a fraction of a second I thought seriously about accepting this amendment. One of the great advantages of the ministerial appeals system is that people are not on public display. I agree with the member that the people are interested in the outcome of appeals. However, I do not believe they are interested in the procedures followed to arrive at the decision. This legislation includes obligations to publish the outcome of appeals and to have them more widely disseminated so that people can understand them. However, allowing the public to sit in at the informal stage of the appeal would be intimidating and would make people feel that they were on public display. One of the great aspects of the current system is that people can put their case well without having an army of people to help them and without feeling as though they are on display and subject to potential loss of face.

The member for Armadale used the Town Planning Appeal Tribunal as an example. I understand from discussions I have had with people who have used the tribunal's mediation service that that system is not accessible to the public.

Ms MacTiernan: We are not talking about mediation.

Mr KIERATH: Certainly not when it deliberates on a decision. Some say that part of the problem with the tribunal is that it is a formal court. For those reasons, I will not accept the amendment. The system will work far better for the parties if it is informal. Once the decision has been reached, that information should be made as publicly available as possible. That published information should include not only the decision but also, and most importantly, the reasons for arriving at it.

Ms MacTiernan: The minister said that at this stage in the process the hearings should not be open to the public. At what stage in the process should there be public hearings?

Mr KIERATH: It is possible to have a hearing open to the public under certain circumstances.

Ms MacTIERNAN: However, there is no "as of right".

Mr Kierath: No, there is not.

Ms MacTIERNAN: It is important to understand that what is proposed is a complete reversal of every legal principle. The legislation states that under normal circumstances, all hearings will be held in secret and that some may be held in public in special circumstances. It is an absolute reversal of our legal process.

Mr Kierath: The parties involved know what is going on.

Ms MacTIERNAN: The minister previously admitted that there is no obligation to inform each of the parties, let alone the public. Last night the House heard about the possibility of secret evidence.

Mr Kierath: I said the exact opposite. There is an obligation to share the information and exchange the documents.

Ms MacTIERNAN: There is no obligation. The minister has rejected the Opposition's attempts to insert such provisions into the legislation. Before the House is a most extraordinary provision that turns legal process on its head. It states that all hearings should be held in secret, unless it is determined to be a special case which should be held in public. There are two problems: Firstly, there is no guarantee that both sides will be advised of the hearing. Rather, there are suggestions to the contrary because secret information will be allowed. Secondly, this provision means the public is effectively excluded from the process. It is amazing that the minister can consider passing this legislation. He spoke about the little fences. What about major appeals on matters such as the Nutri-Metics site and major subdivisions? What about appeals that impinge on a whole community's way of life? The minister is telling the community that he thinks it is proper that the public not know what is going on and that it does not have the right to hear what is happening because these cases will be heard in secrecy.

The minister also argued - a piece of unmitigated nonsense - that because the Opposition accepted the need for mediation to be held in private and because the tribunal holds hearings in private, all planning appeal hearings should be in private. There is a fundamental difference between mediation and a hearing. Mediation is an attempt to negotiate a solution; a hearing is an adversarial process for a determination to be made by someone appointed under this legislation. It is a different box and dice altogether.

Ms ANWYL: I do not think the minister's reference to mediation was helpful. Some of what the minister says is good and the Opposition supports him. We want things to be accessible to the public and for the processes to be informal to the extent that people feel they can participate and are not intimidated by the administrative process. However, we do not want the minister to throw the baby out with the bathwater. We do not want him to abolish the rules of natural justice. In what circumstances will the assessor determine that discussions, hearings or inspections should be open to the public and what will be the grounds for the assessor to decide that? Recently there was an appeal in my electorate over a decision by the Health Department to build 13 units on a park site in Hannans. The assessor to whom I spoke was very helpful, and I compliment the minister's helpfulness in explaining the process to me. It is rare that he would receive a compliment from me. During that appeal process, there were discussions about whether there could be an open meeting for the residents to discuss the issue. In that process, the minister was properly informed and there was the possibility of a public meeting. That is the sort of situation the member for Armadale is talking about, where a lot of residents are affected by a particular matter. How do we know if the assessor is likely to determine there should be open discussions, hearings and inspections? Similarly, the legislation also allows for the discretion of secrecy during the cross-examination. In what type of situations would the assessor exercise his discretion and allow for a public hearing?

Mr KIERATH: That is a good question. A number of cases have effectively had public hearings or meetings, even during the ministerial process. In a number of cases I have gone to the site and invited anyone with an interest to come along to put forward their point of view. There are a couple of cases, such as the White Sands and the Nutri-Metics sites, where the assessor attended a public meeting in which the members of the public indicated their views. The member for Kalgoorlie knows there are examples, such as the Finnerty Lane appeal, where I met with a lot of people. I even heard a representation from the member. If a case has a wide community interest, it would be earmarked for at least some of it to be held in public. We have done that as a matter of practice. Through this legislation, we want to formalise the ability to do that where cases are significant to the community. We have not yet prescribed the requirements, except to say that the director would generally be favourable to public hearings, at least in part, for issues in which large parts of the community have an interest and want to have a say. The Finnerty Lane and Nutri-Metics sites are examples of cases that fall into that category.

Ms MacTIERNAN: I do not think it is worthwhile prolonging this debate. In terms of legal principles, we are casting pearls before swine.

Government members interjected.

Ms MacTIERNAN: Members should read the legislation and they would see what I mean. The minister is dismantling 1 000 years of development of the rule of law. It is an extraordinary Bill. The minister says, "Why worry? Everything will be all right in most cases and it will not be a problem." The whole reason we are putting laws in place is that everything is not all right and contentious cases arise where people play hardball. The nonsense we hear from the minister during debate on every clause that we should not worry because it will never happen is absolutely preposterous. In all the years I have been in Parliament, this is the worst piece of legislation in terms of its principles. It is not even government ideology! Most of the people who have spoken to me about it are probably on the blue team and they say it is a load of rubbish.

Mr KOBELKE: This debate is important. The minister must recognise that the lack of underlying principles in the legislation is a matter of grave concern. We try to amend certain parts of the legislation, but the parts relating to secrecy and the processes which are incorporated into the Bill pose major problems for the arrangements that will be put in place. The member for Armadale has adequately laid before the Chamber the major concerns of the Opposition about the secrecy in the preceding section and the section before the House. We are certainly concerned.

Mr Kierath: How would the member know? He was not even here.

Mr KOBELKE: I was here for a fair bit of it and I also have the ability, when in my office, to listen to the debate. The points that have been made by the two Opposition spokespersons indicate that what is being envisaged on the secrecy provisions is really a subversion of the fundamentals of proper process in modern administration. The minister is not putting in place a system of appeals which will have any standing in the law and how it operates today. One party cannot be involved in an appeal process without knowing the case being put by the other side. Debate was adjourned until a later stage, pursuant to standing orders.

[Continued on next page.]

[Questions without notice taken.]

RAIL FREIGHT SYSTEM BILL 1999

Returned

Bill returned from the Council with amendments.

Order of the Day

MR BARNETT (Cottesloe - Leader of the House) [2.37 pm]: I move -

That consideration in detail of Legislative Council Message No 50 be made an order of the day for the next sitting.

Points of Order

Ms MacTIERNAN: We believe that the message from the Legislative Council contravenes section 46 of the Constitution Acts Amendment Act. Is it appropriate that we raise our arguments now, or can we debate that later? We are concerned that the matter is improperly before this House.

The SPEAKER: It is quite appropriate for the member to raise this matter in a general sense now. Having alerted me and the Clerk to the possibility of a problem, we will have a close look at it. It is totally appropriate for it to be put on the Notice Paper.

Ms MacTIERNAN: Will we have an opportunity to set out why we believe this is improperly before the House before you, Mr Speaker, make your ruling?

The SPEAKER: I am quite happy to delay the matter.

Mr BARNETT: Although I am not familiar with the content, the Legislative Council's message contains nine pages of amendments, so the Government would allow opposition members adequate time prior to bringing this on for debate.

Ms MacTIERNAN: To clarify that, we will have an opportunity to make our submissions before you, Mr Speaker, make your ruling on this matter. Is that correct?

The SPEAKER: Are opposition members in a position to make their statements now?

Ms MacTIERNAN: We do not have with us the full documentation we require. We need to bring before the House evidence that this new appointment will require a considerable additional appropriation from the budget; we will need to establish that evidentially. We can bring forward documentation to do that, but we must collect that information. We do not have it with us now, but it could be done before the close of business today.

The SPEAKER: We will look at that. However, we can put the matter on the Notice Paper for consideration. Members of the Opposition can bring to our attention whatever documentation they like, but I assure members that I will be strong on the matter. A Bill was ruled out this morning because of those sorts of problems. We will have a close look at it and the matter will be listed on the Notice Paper and dealt with appropriately.

Debate Resumed

The SPEAKER: The Leader of the House's motion was that the matter be listed as an order of the day for the next sitting of the House.

Question put and passed.

PLANNING APPEALS BILL 1999

Consideration in Detail

Resumed from an earlier stage.

Clause 17: Investigation of appeals -

Debate was adjourned after the clause had been amended, and the member for Armadale had moved the following further amendment -

Page 11, lines 15 to 17 - To delete the lines and substitute the following -

(3) Hearings and inspections conducted under subsection (2) are open to the public.

Ms MacTIERNAN: The Opposition will not prolong debate on this clause. The amendment will ensure that hearings under the new town planning appeals model are open. That is a straightforward and ordinary principle, but one which has been turned on its head by this legislation which, unbelievably, demands that all hearings are to be in secret unless otherwise determined. Anyone who reads this legislation will realise that this is a nonsense.

Amendment put and a division taken with the following result -

Ayes (20)

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

Noes (28)

Mr Ainsworth	Dr Hames	Mr McNee	Mr Shave
Mr Baker	Mrs Hodson-Thomas	Mr Minson	Mr Sweetman
Mr Barnett	Mr House	Mr Nicholls	Mr Trenorden
Mr Bloffwitch	Mr Johnson	Mr Omodei	Dr Turnbull
Mr Court	Mr Kierath	Mr Osborne	Mrs van de Klashorst
Mr Day	Mr Marshall	Mrs Parker	Mr Wiese
Mrs Edwardes	Mr Masters	Mr Prince	Mr Tubby (<i>Teller</i>)

Mr Bridge	Pair	Mr Pandal
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Amendment thus negatived.

Mr KOBELKE: The Opposition has major problems with the content of the new clause, as amended. Clause 17 is headed "Investigation of appeals" and outlines the purpose and role of the assessor, the discussions, hearings and inspections to be conducted and matters open to cross examination. The real concern is that the whole process will not be open and accountable. This clause provides the basis on which the decision will be made. The minister has said that he has tried to set up this system so that it will be at arm's length from the minister. I do not think the Chinese walls - or whatever popular term one might like to use - are in place, because the people who will be doing the work are in the employment of the minister, either directly or indirectly. If they wish to continue working in this area of preparing the information for the decision-making process and making the decisions, they are beholden to the minister of the day to maintain their position. Although the legislation says that the minister is not to play a direct role, and there is not to be a transmission of information to the minister - unless the minister calls in the matter - the belief will be that that is not the way it will operate. Assuming

the officers are people of integrity and professional ability - as they have been in the past - there will still be the assumption that they are employed by the minister and they understand the general intentions of the minister in a range of areas, so it will be difficult if not impossible to divorce the position of the minister from the investigation of the appeal and the other steps within the decision-making process. In addition, the fact that the minister has call-up powers is held over the whole process. The minister has the ability to check where an appeal is at, and that ability may transgress other matters in the appeal. The minister might say that having an understanding of the degree to which the process has advanced is different from knowing the substantive issues that form part of the appeal, and clearly they are different issues. However, it will not be easy to draw a clear boundary between the two. When the minister seeks to know at what stage an appeal has reached in the process, because he or she may be considering whether it is subject to call-up to the minister, there will be a transgression into areas which relate to the substance of the appeal. The people who will be involved in preparing the appeal documents and in processing the appeal are aware of the minister's rights and obligations and the role the minister can play. When the departmental officers involved know that their jobs are determined by the minister and that the minister rightly has legal powers to intervene through a particular mechanism, it is likely to be seen from the outside at least that the ability to divorce the whole matter from the minister will not stand for anything. Until such a system is in operation, it is difficult to know in what fashion a minister or group of ministers will operate. However, it is clear the perception will be that such a separation will not occur. That is a fundamental problem with this process, bearing in mind we are dealing with the investigation of appeals.

Under subclause (4), cross-examination is not permitted at a hearing unless the assessor determines that it is appropriate in a particular case and the cross-examination is conducted in accordance with directions of the assessor. That places severe restrictions on what can be done by way of cross-examination during the investigation of the appeal.

Mr CUNNINGHAM: I would like to hear more from the member for Nollamara.

Mr KOBELKE: I thank the member for Girrawheen for providing me with the opportunity to finish my remarks.

I understand the minister wants to ensure the system does not become too legalistic; therefore his intention is to try to reduce the legal process by which cross-examination could be the basis for leading to an increased level of legality and complexity and the drawing out of the process. However, I am concerned that the powers provided under subclause (4) will mean that the assessor has control of what must be an open process in which the information is available and people have the opportunity to get access to it. Cross-examination of some form would be a key part of that. In moving from a system that would be seen to be based on natural justice and the ability to access information and argue the case, the rightful desire to reduce the level of legality may mean that we end up with an unfair process.

Mr KIERATH: To begin with, the member's comments about people being subject to my direction is a slur on the people involved.

Mr Kobelke: I do not intend it that way.

Mr KIERATH: There are two groups of people; that is, professional public servants and people appointed by the minister, usually on the recommendation of the director. The panel vets people applying for these positions to see whether they have appropriate experience. They come from a range of vocations such as engineering and planning and people representing local government. Many of those people are at the latter stage of careers in which they have developed a lifetime of experience. If the member for Nollamara met these people he would know I could not influence them in any way. They are an independent group of people who have a career behind them and who want to put something back into the system. Many of the people thoroughly enjoy the involvement. I do not agree with the premise of the member for Nollamara, although the member has a right to make it.

That part of the ministerial appeals system has had very strong community support and very little criticism. Even during the inquiry, little criticism was made of that group of people. I have confidence in that system.

It is important to refer to clause 18(2) which reads in part -

An Assessor investigating an appeal may investigate all issues arising in relation to the decision. . . .

The member for Armadale has done a cute exercise of comparing the tribunal with this system. The tribunal can adjudicate only on evidence put before it. It cannot gather material in its own right. There are two systems. For argument's sake, administrative tribunals are held in many cases. It is a well-established principle. It is not a matter of having one group opposed to it. It has been well tried and proved. The assessor will have the power to investigate all issues. I do not think the member was here when we had the debate on the principles of natural justice.

Mr Kobelke: I was here.

Mr KIERATH: I reiterate that they are clearly ensconced in section 40(2)(b).

Dr CONSTABLE: I supported the amendments moved by the member for Armadale because, in principle, I support greater openness and less secrecy. Having said that, I have two or three questions I would like to address to the minister about this clause for some clarification. I find the phrase in subclause (1) "sufficient information" to be extremely vague and worrying because it is possible that an assessor might collect some information which he might determine to be sufficient, but it might be biased and cause problems because it is not sufficiently complete on which to base proper or fair decisions. What is the intention of the term "sufficient information"?

I would also like clarification of subclause (3), which refers to hearings not being held in public unless the assessor determines otherwise. That goes to the heart of the proper process. I would prefer to see far more openness in the procedures than are contained in the Bill. Under what circumstances will the minister see those public hearings being made open to the public rather than being held behind closed doors? How often will public hearings be held rather than closed hearings? Will it be 50 per cent, 80 per cent or just a small percentage?

Subclause (5) provides that the assessor investigating an appeal is not bound by rules of evidence. That bothers me because there is no certainty in the process for the person appealing and for others providing information. I would like to see more certainty in the Bill so that the parties to the appeal will not be disadvantaged. Some may well be disadvantaged by this process, although I may have misread it and am happy for the minister to clarify it.

Subclause (5) indicates to me bias could occur in the process. Sometimes the procedures might take one course and at other times another course. I will welcome the minister's explanation of those points.

Mr KIERATH: I am sorry that the member was not here earlier because we have had fairly extensive debate on two of the three issues she raised. However, I will try to cover the short version of it. We did not cover the issue of "sufficient information". I guess it is a legal term, but the purpose of the investigation is to try to gather all relevant information.

Ms MacTiernan: "Sufficient information" is a legal term.

Mr KIERATH: It is a legal term in the sense that sufficient information must be gathered so that a decision can be made. Often with these appeals, a considerable amount of information can continue to be gathered, but there are core issues. In many cases it relates to whether the appeal is allowed under the town planning scheme as a matter of right, whether it is prohibited under the town planning scheme or whether it is discretionary. If it is prohibited under the town planning scheme, which is subsidiary legislation, we can investigate all the information we like but an appeal cannot be upheld. I understand the word "sufficient" to mean enough information to enable a decision to be made. In some cases no matter how much evidence is gathered, if the appeal is prohibited or is a matter of right under the town planning scheme it is cut and dried. Discretionary decisions are difficult because some form of judgment must be made. I do not choose those words; the Government issues drafting instructions about the things it is trying to achieve and the various counsel prepare the legislation.

Ms MacTiernan: As best they can, given the bizarre instructions.

Mr KIERATH: It is interesting that the member should use the word "bizarre", because there are many administrative, tribunal-type bodies in all jurisdictions. The reason the number of them continues to grow is that they are much more user-friendly, they tend to give the people using them better results, and they are nowhere near as legalistic, expensive and complicated. Some of the appeals to the tribunal are a matter of right over rule. Those with the money, muscle and power win, and those who do not have that are trodden down in the process.

The decisions and reasons for them will be widely publicly available, but some people discuss issues which in many cases are private issues and not major planning decisions. Often they are small backyard issues that are important to the people involved but they would not like them to be exposed in a public arena. Most of them want the process to be informal. I gave examples of the issues on which I have gone public and allowed information to be widely available. One was the Finnerty Lane project raised by the member for Kalgoorlie, which was a controversial community issue. Another was the White Sands tavern, and a third one recently was the Nutri-Metics site. There was a public meeting in the latter case and people were allowed to state their views. At least parts of the process involving matters which have a broad community interest would be public, but not necessarily all the process. Those are the sorts of criteria involved. They have not been written down in a formal sense, but this is an administrative and discretionary matter whereby the assessor and the director would make a decision that the matter was of sufficient importance that at least part of it should be held in the public arena. It is not about keeping information from the public per se, but is to allow people to feel more relaxed in putting their case in an informal way and having it considered. The ministry believes every decision should be widely publicised and, most importantly, the reasons for decisions should be widely discussed and disseminated. I have tried to cover all that.

The rules of evidence are a typical provision in any administrative tribunal. They are not bound by formal legality. They must comply with the principles of equity, good conscience and natural justice, but if they trip over in the application of the mechanism that is not a reason for overturning the decision.

Ms MacTIERNAN: I have just noticed that one of the amendments I wish to move on this clause does not appear on the Notice Paper. I am not quite sure what has happened to it. I move -

Page 11, lines 23 to 25 - To delete the lines and substitute the following -

- (5) An Assessor investigating an appeal is not bound by the rules of evidence and will, subject to this Act, conduct the appeal in accordance with procedures prescribed in the regulations and known to the parties prior to the investigation of the appeal.

The idea is to deal with this very problematic proposal that the assessor can be a law unto himself or herself in determining the procedures to be followed. That is not satisfactory. There must be a prescription by regulation to deal with this, and the parties must be informed. There might be some flexibility in the regulations, and they might provide a framework of process to enable the assessor to pick the appropriate parts of that framework. However, the assessor cannot be given free form, as is contemplated in the Bill. The provision anticipates there will be regulations setting out the procedures, and those

regulations must be followed by the assessor. It will not be sufficient for the assessor just to have regard to them. I imagine there will still be some flexibility, but the procedure cannot be totally outside any guidelines. It cannot be a system that is completely open for the assessor. I recognise that the existing subclause states that the investigation must be subject to the Act and the regulations. However, people putting together these appeals have told me this is a very frightening proposal, and there needs to be some certainty and mechanism whereby the procedures are communicated to the parties to the appeal so that everyone knows precisely which procedures are to be followed; in other words, it cannot be Rafferty's rules.

Mr KIERATH: I have already moved an amendment to this clause dealing with this issue to the effect that when deciding how to conduct an investigation, the assessor is to have regard to any representation made by the parties in that regard.

Ms MacTiernan: That is a different point.

Mr KIERATH: It is the same point, and I invite the member to indicate the difference between them.

Ms MacTIERNAN: One is saying that before the procedural framework is set, the assessor must take submissions. That was a positive step with which the Opposition agreed. The Opposition is now saying the procedures must be within a framework set out in either the Act or the regulations. This clause is a lot broader than that, and my amendment seeks to cut it back so that the procedure must conform to the Act or the regulations. That would require more extensive regulations.

Secondly, the assessor would then have to communicate to the parties. The amendment moved by the minister means there must be consultation at the beginning of the process; the Opposition is saying that once the process has been determined, it must be communicated to the parties. Can the minister see that it is quite different? One process involves taking submissions on how the process will be structured. This amendment will ensure that the process to be followed must be communicated to the parties to an appeal. It is a different and necessary amendment, otherwise the parties to an investigation will be unaware of the process decided upon by the assessor although they may have had an opportunity to make submissions.

Mr KIERATH: I have some sympathy with the member's amendment and I may have been tempted to accept part of the amendment except that a worrying aspect of most of her amendments is to prescribe legalistic and technical procedures. I said, when we were debating this clause earlier, that I did not want that to occur and we should provide as much flexibility as possible to the process. On the amendment I saw, the member had the word "may" crossed out and substituted with "will". I do not support the amendment on that basis. However, the last part of the amendment will occur in any event. I have given various undertakings on the record that the parties will know and understand the procedures of their appeal beforehand. However, I am reticent to introduce wording that includes "will" instead of "may". I am attempting to provide the greatest amount of flexibility to this matter. I accept that may be a wider interpretation than the member would support. However, we are trying to give the people who want an informal decision from the process as much flexibility as possible. Other provisions in the Bill include "may" rather than "will" or "shall" and I want to preserve that flexibility in the Bill.

Ms MacTIERNAN: That means that the assessor can decide the process he or she will follow, and that flexibility is desirable. The minister could have a framework of regulations that allows flexibility; however, this clause creates an open-ended system.

The second point which the minister has not addressed is that nothing in the legislation requires the assessor to advise the parties of the nature of the process that he intends to follow. That is bizarre. I am surprised that the minister is not prepared to accept an amendment. Would the minister accept, as an alternative amendment, the deletion of the first part of the amendment and the addition to the end of clause 5 the words "and made known to the parties prior to the investigation of the appeal"?

Mr KIERATH: I have no problem with that. However, under the circumstances, I am reluctant to allow the member to draft words as we go.

Ms MacTiernan: That is what this process is about.

Mr KIERATH: Yes, I understand that. I am just saying that I have seen the member's work and I am reluctant to do that. I have given reasons for not supporting the first part of the amendment. I do not believe the member has an amendment before the Chamber at this stage. In principle I support the second part of the amendment. I give an undertaking that I will leave the Chamber today to seriously consider the words that can be drafted, provided there is no strong objection in our advice, as I have sympathy for the last part of the amendment.

Ms MacTiernan: Why don't you accept the words that are there?

Mr KIERATH: As I said, I will examine it and get the right form of words. I have given that undertaking to the Committee, and to the member for Armadale in particular.

Ms MacTIERNAN: The minister is the most inflexible of ministers. When we first started this debate he undertook to explain various other inconsistencies in the legislation. Notwithstanding those undertakings, we have heard nothing back on those points. With what confidence can we approach this undertaking? The minister undertook to explain why there were two definitions of "legal practitioner" in the Bill.

Mr KIERATH: This is probably not a bad time to bring this matter to account because of the furphies that the member for Armadale runs around preparing. I did chase up the contradiction in the interpretation of "legal practitioner" raised by the member for Armadale.

Ms MacTiernan: I asked why there were two different interpretations.

Mr KIERATH: Yes, the member raised the apparent contradiction in clause 15(4), which refers to a legal practitioner, and clause 39(3)(c), which refers to a certified practitioner within the meaning of the Legal Practitioners Act.

Ms MacTiernan: I asked you to explain what the difference was and you could not.

Mr KIERATH: Yes, I am coming to that. It was also noted that another clause in the Bill, 28(3), also refers to a legal practitioner. I received verbal advice from parliamentary counsel about their intent. They confirmed that there is no difference in intent between the two terms; one term can be substituted for the other. The common term for a certified practitioner within the meaning of the Legal Practitioners Act is a legal practitioner, presumably in the same way that medical doctors are referred to as medical practitioners. "Legal practitioner" should be generally understood as to what it entails and it reflects a more modern interpretation. Other legislation, such as the Commercial Arbitration Act 1985, contains the term "legal practitioner". However, to make the terms consistent throughout the legislation I could, when we get to that part of the Bill, substitute "legal practitioner" for "certified practitioner within the meaning of the Legal Practitioners Act".

Ms MacTIERNAN: The minister has not demonstrated that my question is a furphy. The minister has acknowledged an inconsistency in the terminology used in the legislation. I recommend he read Hardcastle's book on statutory interpretation as he will find some insights in it. One of the key principles of statutory interpretation is that when different words are used in different clauses, they are presumed to be taken to mean something different. If the minister asserts that these terms are completely interchangeable, he fails to acknowledge that important principle of statutory interpretation. That is the kind of amateurism used in drafting this legislation that will see these Bills end up in a great deal of Supreme Court litigation. It is disappointing when the minister concedes a case, as he does here, that he will not include a provision to ensure that parties to an appeal are at least advised of the process that the assessor has arbitrarily decided upon. The minister is so inflexible that he is not prepared to concede that amendment. It is a pity, as it will prolong the debate in the upper House.

Mr KIERATH: I said I would concede that amendment but I will seek to get the right form of words. I do not want to insert words that will cause problems. I believe that is a legitimate undertaking and a reasonable response.

Ms MacTiernan: You would never accept an amendment, is that what you are saying? You would always want to go back to get the right form of words?

Mr KIERATH: No, I did not say that at all. I said I want to ensure that I have the right form of words in the Bill. My obligation is to ensure that I get the right form of words. It is true that I rely on parliamentary counsel's advice, as every minister in this place does. As I said, I will seek to have that amendment included and I believe that is a concession.

Amendment put and negatived.

Ms MacTIERNAN: We will not divide on this but this provision is profoundly unsound for all the reasons we have set out in discussion of the clause. It is the cornerstone of a process which will be most unfair and secretive and one which lacks any of the requirements of the rule of law. It is setting up the possibility of a kangaroo court of extreme secrecy and a situation in which not only will the public not know what is happening but also the parties to an appeal will not know what is happening. It is a recipe for grave injustice which will bring with it the real prospect of lots and lots of litigation.

Mr KIERATH: That is not the case. Fewer than a handful of decisions, mine and those of former ministers, have been challenged in the courts. In my three years and 2 500 decisions, only one or two have ever been challenged and I think one of those was a bit of political mischief from one of the local councils.

Ms MacTiernan interjected.

Mr KIERATH: I want to place that on the record. The member makes these outrageous statements about what she thinks will be the legal precedents. I am simply pointing out that that is not borne out by the facts. We have been operating under many of these situations in an informal sense.

Clause, as amended, put and passed.

Clause 18: Matters to be considered by Assessor investigating appeal -

Mr KIERATH: I move -

Page 12, line 7 - To delete "*Heritage Act 1999*" and substitute "*Heritage of Western Australia Act 1990*".

Page 12, line 13 - To delete "and".

Page 12, after line 13 - To insert the following -

- (h) if the appeal relates to land in the redevelopment area as defined in the *Midland Redevelopment Act 1999*, the redevelopment scheme in force under that Act; and

These are the machinery bits and pieces which I referred to earlier. There are a few of these amendments relating to the Heritage Act and the Midland Redevelopment Act.

Amendments put and passed.

Ms MacTIERNAN: I have a question about subclause (1)(d). The Western Australian Municipal Association is concerned that the range of planning instruments which can be considered may not be broad enough. I understand that the minister has amended that provision and it is not as it originally was; that is, before the Bill reached this place, it was changed to broaden that clause. However, I note that WAMA believes that a number of planning instruments which it uses may not be covered. I would like the minister to respond. It seems that WAMA is concerned about whether town planning strategies and structure plans would be included in the range of planning instruments contemplated by the Government in subclause (1)(d).

Mr KIERATH: It is important to go to the head of clause 18(1) which states -

While investigating an appeal an Assessor is to have regard to all relevant matters including -

It then lists the obvious ones. The assessor must have regard to everything but these are some of the more generally accepted matters. The power is a much broader one.

Ms MacTiernan: They want to ensure that these things are considered. They want to ensure that the structure plans and the town planning strategies are included, not that they have the option to be included but that the assessor takes them into account.

Mr KIERATH: We believe the wording we have causes those things to be taken into account.

Ms MacTiernan: Are you saying that in your view paragraph (d) is broad enough to encompass town planning strategies and structure plans?

Mr KIERATH: Yes. In dealing with town planning schemes, some of the structure plans would have greater status and priority than some of the councils' policies.

Ms MacTiernan: They want to ensure that they are included. You do not seem to understand that people do not want bland assurances that everything will be all right. They want to know, as of right, that those planning instruments will be included.

Mr KIERATH: I understand that but in response to discussions I had with WAMA, I checked with our legal advisers and was told that "all relevant matters" - a structure plan is certainly a relevant matter - means that is included.

Ms MacTiernan: Using that logic, why put anything in paragraph (d)? If you use that logic, you do not need to put anything in.

Mr KIERATH: Probably because in earlier discussions WAMA indicated that it sometimes felt ministerial decisions did not give enough weight to its various policies. Therefore, we went a bit further to include policies and other issues to provide that reassurance. However, there is a limit to what we can specify there. Our legal advice was that the head of power was in the first sentence and this simply includes some things which we were asked to address at the time.

Ms MacTiernan: But they must be addressed. I take your point; I think it is probably enough.

Clause, as amended, put and passed.

Clause 19: Powers of Assessor investigating an appeal -

Ms MacTIERNAN: The Opposition does not have an amendment to this clause but it is a curious clause. This clause allows the assessor to call upon any person, regardless of whether he is associated with the appeal, to provide any information to the assessor. Failure to comply with the assessor's request is an offence punishable by a penalty of \$2 000. There are very grave concerns about the opportunity this provision presents for the power to be misused, either deliberately or through incompetence. These assessors will have broader powers than any police. They will be able to range around the community and demand that people provide any information an assessor may want. It is quite extraordinary. Given that one will never know what the assessor has sought because there is no way of either party knowing what the assessor has done, an assessor will be equipped with extraordinary powers. He will be able to approach any person he chooses and compel that person to provide information. These may not be people who have anything to do with the appeal whatsoever. They could be people who are on the sidelines. They could be people who have commercial dealings with the appellant. They might be lessees or prospective lessees of the appellant. They could have nothing to do with the appeal process but could be brought into the net and compelled to provide information. It is an amazingly broad power. Why has the minister drawn it so broadly? This power should be confined to government agencies and those who are parties to the appeal. No justification has been advanced for why an assessor should have such powers and be allowed to drag non-parties into what is essentially a civil proceeding between two parties.

Mr KIERATH: The assessor may inspect, copy or retain any document or object produced in connection with the appeal. There would have to be some connection to the appeal. The process involves a series of procedures, including giving the proper notice, time to respond and an indication of the documentation being used. We have tried to tie it down to specifics. It cannot be restricted to primary parties because in some areas third parties are involved, and those parties might require documents to be produced.

Ms MacTiernan: You think third parties should be dragged into the tribunal, made to take an oath and be subject to examination, even though they might be completely unwilling to be involved.

Mr KIERATH: It would be very rare.

Ms MacTiernan: It is the RAC defence we have for every provision of this Bill.

Mr KIERATH: It will be very rare. Information might be required from third parties to determine the appeal.

Ms MacTiernan: Can you give an example of a situation in which it would be appropriate to drag in a non-player and make him provide evidence on oath and produce documents?

Mr KIERATH: A third party might be complaining about the effect of a parapet wall.

Ms MacTIERNAN: Think about that. In that situation, presumably the application to build a parapet wall was knocked back; so the person wanting to build it would launch an appeal. The person making the objection should be given the right to be heard, but not compelled. The ball is in that person's court. If he did not want to give evidence, he would not and that would help determine the standing of the appeal. That does not justify compelling a person to give evidence; that is completely out of order. If a person decided not to give evidence against his own interests, that is his problem. That is not a case in which one would want to compel anyone.

Mr KIERATH: I will endeavour to provide other cases. The member asked what sort of cases I would envisage. Cases involving parapet walls are an example. Many complaints are lodged about parapet walls and the undue effect they might have on a neighbouring property. Sometimes the neighbour may not be aware of the ramifications. I am providing "what if" situations in which the provision might be used.

Ms MacTiernan: That does not make sense because the person objecting would want to give evidence. If he did not, he obviously was not serious.

Mr KIERATH: The member has presented one side of the argument. The other side is that that person might want to be mischievous. In that case, the assessor must be in a position to compel that person to appear.

Ms MacTiernan: If that person were not prepared to come along, his evidence would not count.

Mr KIERATH: A decision based on equity, good conscience and natural justice must be made. To do that, the assessor must be in possession of all the relevant information. If it is not relevant, it will not be used.

Ms MacTIERNAN: The explanation does not ring true. Surely any person who wanted to object would be prepared to give evidence. If he were not, that evidence would not be taken into account. The only person missing out would be the objector. We are not dealing with those cases; this is something quite different. The minister has not yet provided a satisfactory account of the sort of situation in which it would be reasonable for the assessor to fix upon someone and compel him to give evidence under oath and produce documents. The cases the minister cites are nonsense because, if a person did not want to give evidence, the assessor would not take into account evidence from that person. Such a person would be acting only in his own interests in giving evidence. We are talking about a completely different situation; that is, witnesses who do not want to be involved in an appeal being compelled to participate.

Mr KIERATH: The member asked me to provide some examples. I gave one and sought advice. While she has been on her feet I have been able to think of others. The decision-making authority may be a council, but we may want evidence from various council officers on a range of issues. The case may involve other developers and consultants. We may be presented with information for which there is no justification. The drafting instructions requested powers to undertake the type of appeals we need to be able to address. In the end, the legal advice is that this provides those powers. We rarely need to get information from another party, but in some circumstances - albeit a minority - it is required. We need all the relevant information to make a decision. We do not make the decision based on the evidence presented - we search out information. Therefore, we need powers to compel people to produce documents and evidence on which a proper decision can be made. We would not expect it to be used very often, but it is a reserve power if someone is -

Ms MacTiernan: Trying not to give evidence.

Mr KIERATH: I am helping a constituent with an issue involving a local council. The person who did the development is playing the law to the letter. Although ultimately he must be held responsible, he has been hiding behind the statement that someone else did the work and that he does not know who it was, but he paid for the work. The only reason I raise that is that sometimes those sorts of games are played. Obviously, when we are making a binding decision in a situation like this, we want to make sure we have all the relevant information to make the proper decision in the first instance.

Clause put and passed.

Clause 20: Report on investigation -

Ms MacTIERNAN: I move -

Page 14, after line 2 - To insert the following -

- (3) Each party is to be provided with a copy of each Assessor's report concerning their case at the same time such copies are provided to the Planning Appeal Panel.

This amendment seeks to ensure that the parties to the appeal have access to the assessor's report, especially when it is sent to the Planning Appeal Panel. It is important to understand how this mickey mouse committee will work. The assessor

will be a law unto himself, roaming at large with automatic weapons, compelling people to give evidence and taking secret submissions. Having decided his own process, who he will talk to and the matters he will take into consideration, the assessor will then draw up a report, which is given to the panel. The panel, which makes the determination on the appeal, can take into account only those matters contained in the report. Therefore, the report is crucial in the process of determining an appeal. This will be discussed in detail later, but the extraordinary proposition that the panel is not allowed to have contact with the appellant should be understood. The panel will sit up in its ivory tower and will not be allowed to see or speak to anyone. All that comes through the bars will be the reports from the assessors roaming around the countryside. The panel will look at the assessor's report and then make the determination. The assessor's report is crucial because it becomes the body of evidence that is taken into account when determining an appeal. The Opposition believes it is vital that the assessor's report is also given to the parties involved in the appeal, so they at least know the basis on which the panel will make its decision and so that they have access to the body of data that the assessor acknowledges, rolls into a report and shunts through the bars to the panel imprisoned in the high tower. It is difficult to understand why the minister is not prepared to provide the assessor's report to the parties to the appeal. If the amendment is passed, it will still be an imperfect process because the assessor's report will not necessarily detail all the people who were spoken to. The report will be the assessor's own spin on the information or evidence that was taken. However, at the very least, the people will know what will form the basis of the panel's decision-making process and the entirety of the matters taken into account by the panel. For that reason, it is fundamental that the parties to the appeal have access to the document so that they are aware of what is going on. It is also crucial so that a writ of certiorari or another prerogative writ can be issued if the document contains any major errors. The minister says that that will rarely happen because the assessors will be fabulous people doing a fabulous job. That is probably right, but it is hard to see how the minister can justify not providing the assessor's report to the parties to the appeal.

Mr KIERATH: One of the last comments made by the member for Armadale is probably the reason I will not accept her amendment. She said her amendment would provide the opportunity for some legal remedy to prevent the decision being made. That concerns me because the Government does not want that to happen. The reports will be available under freedom of information legislation. The final decision and its reasons - not the report - will be made available to the individual parties and the public. The member must understand that when the panel is making its decision, it will have not only the report but also access to all the papers associated with the appeal. The panel will have the benefit of the assessor's report, as well as wider access to information through the information the assessor was able to bring together when writing the report. The panel acts as a review on the assessors.

Ms MacTIERNAN: It is true that the panel can determine that the assessor's report is inadequate and send it back for more information, but it cannot look at any matters that lie outside the assessor's report. The panel is expressly precluded from any additional investigation or from holding hearings. At the end of day, the assessor's report is the equivalent of the evidence given in a court, or even the judge's summary of the evidence given. The Government does not believe it is appropriate for the parties to get hold of this report in case they find something is grossly wrong with the assessor's report. Something would have to be badly wrong for it to form the basis of a writ of certiorari. The minister himself said these writs are rarely issued because they are expensive. The Government says such action is inappropriate, even though something in the report might be very wrong. It feels it is important the report is kept secret so people do not take action to defend their rights. People have suggested that the Opposition demand that the parties be provided with all the submissions and notes the assessor takes, but we know that would be impossible. The Opposition has adopted a more moderate approach that looks at the assessor's report, which is crucial to a person knowing what the case against them is. The Opposition asks that the report be made available to the parties, not the public. As I have reiterated time and again - but have not been able to get the minister to understand - it is crucial to the principles of natural justice that a person knows the case being put up against them.

A panel will make a decision based on this body of evidence and we will let the parties know what the body of evidence is that will be considered by the determination panel. It will not work, and it is not acceptable. The minister can be absolutely sure that this provision will not get through the upper House. It is an absolute nonsense.

Mr KIERATH: I refute some of the claims made by the member for Armadale. She just said that people would not know the case against them. Of course, they would. They will have been given the documents and the evidence by other parties and they will know what the case is.

Ms MacTiernan: Some of it is selected evidence that the assessor chooses to give them.

Mr KIERATH: As I said to the member before, that only happens under very special circumstances. Ordinarily, we would expect all the information to be made available to the parties. Only on some very rare occasions will something be held back. Of course, people will know what the case is against them. The member cannot mount that argument. The member referred to clause 23(1) which states that the appeal panel is to have regard to any report. Subclauses (2) and (3) state -

- (2) The Planning Appeal Panel is not bound by the recommendations of an Assessor.
- (3) The Planning Appeal Panel is not to conduct any further investigation . . . but may refer the appeal back to an Assessor -

That is, either the assessor or another assessor -

- for further investigation if it considers it necessary to do so.

What we do not want to do is establish a new point of legal challenge which will make the process even more legalistic. We are trying to get away from a highly legalistic system like the tribunal into a more people-friendly administrative system. Why on earth would we introduce something that would take us back 100 years? That is ridiculous. I said before that the reports will be available under freedom of information legislation and the final decision and the reasons for the decision will be made available to the parties. If there has been some problem with the legal process, the people involved will be able to take appropriate legal action. They will not lose anything as a result of that. If due process has not been followed they will still be able to take legal action. All we are trying to do is to provide avenues for the decisions to be made as quickly and efficiently as possible. Putting in place the procedures proposed by the member would simply delay that and make it much more complex.

Ms MacTIERNAN: What a lot of nonsense. The minister is saying that we cannot give people access to the body of evidence that will be used to determine their case, but they should not worry because it is available under freedom of information legislation.

Mr Kierath: That is the report - they will already have the evidence.

Ms MacTIERNAN: They will not. I am talking about the body of evidence that goes before the panel. The only material that the panel can consider is the material presented to it in the assessor's report. They do not have to adopt the assessor's recommendations but they cannot move outside the square! The panel's determination has to be based on the material contained in the assessor's report. Is that correct?

Mr Kierath: The tribunal does not give the report to the individual parties either - it just hands down its decision.

Ms MacTIERNAN: Which report does the tribunal not get?

Mr Kierath: It gives a preliminary report.

Ms MacTIERNAN: What preliminary report?

Mr Kierath: It hands down a decision and gives its reasons.

Ms MacTIERNAN: The minister is talking nonsense again. The tribunal has open hearings. However, this provision states that the hearings will be in secret.

Mr Kierath: They will not be held in secret; it means that the public will not be there. That does not mean they will be held in secret.

Ms MacTIERNAN: They will not be open to the public unless the assessor determines otherwise. The whole schema of the legislation, as the minister has acknowledged, is to give maximum flexibility to the assessor. The assessor can take evidence in secret and is not bound, other than through the formal written submissions. He does not have to advise parties to whom he has talked; he does not have to advise people of the informal discussions; but he will put a report together that will go to the panel. If the report will be available under freedom of information provisions, as the minister said, why will it not be given to the parties, who have a legitimate interest in having a copy of the report? If it is available under freedom of information legislation, why will the minister put them through the bureaucratic procedures of getting the assessor's report?

Mr Kierath: The freedom of information action is after the event.

Ms MacTIERNAN: So the minister does not want people finding out if there has been a stuff-up before the event.

Mr Kierath: No. The report is part of the deliberative process of the panel and that is part of its decision-making process. The evidence and all matters have been before it and the parties have had notice, but, in the end, that is the basis on which the panel will give its final decision and the reasons to the parties. If there are any legal problems, then people can take legal action.

Ms MacTIERNAN: This is why this provision is outrageous. The minister is attempting to ensure that there is absolutely no scrutiny until the decision is made. By then it is too late.

Mr Kierath: Under both systems now - ministerial and tribunal - neither provides a copy of the report before the decision is made. A copy is made available only after the decision.

Ms MacTIERNAN: What the minister does not understand is that the tribunal is an open hearing at which all the evidence is presented. The minister is proposing a structure which is the exact opposite; it will not be open. The hearings will be conducted in private.

Mr Kierath: It is open to the parties.

Ms MacTIERNAN: It does not say that. Where does it say that?

Mr Kierath: It is open to the parties. We are just going over old ground. Equity and good conscience require all that. The member knows that.

Ms MacTIERNAN: The structure proposed by the minister will preclude the principles of natural justice being adhered to.

Mr Kierath: Look at clause 42(b).

Ms MacTIERNAN: I know it is in clause 42(b) but I am trying to point out that the structure is one that prevents people from knowing what the case is. This is just another example.

Mr Kierath: It does not.

Ms MacTIERNAN: The minister is saying that people do not have the right to know what information was used by the panel to determine its decision. The panel will make its decision on the assessor's report and people will not know, before the decision is made, what is in the assessor's report. It is unbelievable that the minister has the gall to say that information will be available under FOI legislation and we are doing it like this to make sure that is too late for people to do anything about it if they find that the assessor's report is fundamentally flawed.

Mr KOBELKE: I support the amendment.

Amendment put and a division taken with the following result -

Ayes (15)

Mr Brown	Dr Gallop	Mr Marlborough	Mrs Roberts
Mr Carpenter	Mr Grill	Mr McGinty	Mr Thomas
Dr Constable	Mr Kobelke	Mr McGowan	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Ms MacTiernan	Mr Riebeling	

Noes (24)

Mr Ainsworth	Mrs Edwardes	Mr Masters	Mr Prince
Mr Baker	Dr Hames	Mr McNee	Mr Shave
Mr Barnett	Mrs Hodson-Thomas	Mr Minson	Mr Trenorden
Mr Bloffwitch	Mr House	Mr Nicholls	Dr Turnbull
Mr Court	Mr Johnson	Mr Omodei	Mr Wiese
Mr Day	Mr Kierath	Mrs Parker	Mr Tubby(<i>Teller</i>)

Pairs

Mr Cowan	Ms Warnock
Mr Board	Mr Ripper
Mr Bradshaw	Ms Anwyl
Mr Pendal	Mr Bridge

Amendment thus negatived.

Debate adjourned, pursuant to standing orders.

HIGH CONSERVATION FORESTS, SOUTH WEST, HALT TO LOGGING

Motion

DR EDWARDS (Maylands) [4.03 pm]: I move -

That this House condemns the continued logging of high conservation forests in the south west of the State and calls on the Government to halt logging these forests immediately.

As I speak, at four o'clock in a forest block called Carey 10, people from Pemberton are gathering to discuss its future. Local people, local conservationists, local tourism operators and conservationists from Perth have gone there. In particular, local tourism operators are concerned about the future of Carey 10 as it relates to their plans for tourism in the area around Pemberton. Carey 10 is 23 kilometres from Pemberton and about 8 kilometres from the Karri Valley Resort. As many members are aware, the trees, nature and ecotourism are extremely important, not only in that local area but also in the broader area. For a number of months, members on this side of the House have had concerns expressed to them about the logging that is taking place, particularly the logging of high conservation value forests like Carey.

Carey block, and the part of the block in which a road is being constructed at the moment in preparation for logging this year, is on the interim register of the National Estate. It is documented as having high and very high conservation values for jarrah, karri and marri old growth. Therefore, it is recognised as a sensitive area. It is an area which demands conservation and which has national significance. Indeed, it was also recognised recently by the Government, as a result of the Ferguson report, as an area that has sensitive old-growth karri. Despite the Government's saying to us in December that it would protect a large number of blocks that had sensitive old-growth karri, it is about to go into that block to take out the jarrah. It is no wonder people feel cynical. When people heard the Ferguson report announcement and the media releases that went with it, I think they had in their minds that these blocks would be saved from logging. However, they are now hearing the almost simplistic explanation that, "We will save the karri -we won't touch those tall trees - but we are in there for the old-growth jarrah." The meeting in Pemberton this afternoon is about that.

Mr Omodei: What did Ferguson say about the jarrah in those sensitive old-growth areas?

Dr EDWARDS: It does not matter what Ferguson said; what is important is the way it was presented in the media. When the Government says that it will protect these sensitive blocks, the public takes that at face value and believes those blocks will be protected. The public then gets puzzled when it hears that the Government is protecting the karri on the one hand but, on the other hand, it is going in there to get the jarrah. Talk about trying to have it both ways.

Mr Omodei: You cannot use Ferguson to support your argument one minute and ignore what he says about jarrah the next minute.

Dr EDWARDS: The minister will be able to respond in a minute.

Mr Omodei: I certainly will.

Dr EDWARDS: Good. We look forward to that very much.

We are worried about Carey block, about Boorara block and about a host of other high conservation value old-growth forest blocks which will be logged by this Government. I give the Government credit that we have had a Regional Forest Agreement, an RFA mark II and the Ferguson report. We have been told that there will shortly be a review of royalties, and that at some stage in the near future there will be a review of jarrah. Nevertheless, there has been a lot of hoo-ha and many media releases. The Premier has said that things have changed for the better. People thought that something positive was happening. They thought that the forests they revered and wanted protected were being saved. They are not. At Carey 10, at this moment, an important meeting is taking place, with local people expressing their opposition to what is planned.

Another reason that Carey is so important is that it is part of a proposal called the Greater Beedelup National Park. This proposal has been around for a number of years. It has been put forward by people in Pemberton who want increased forest around the area not only so that they can enjoy it and it is preserved for future generations, but also, importantly for that area, so that it is highlighted as a tourism asset. In the RFA and the Ferguson report, this proposal for the Greater Beedelup National Park has been modified. The members of the group in that area are now waiting for further information from the Government to ascertain how they should modify their proposal to make it more realistic. They are still waiting for that information. This group of people is being incredibly responsible about what it wants. Yes, they have had some wins in protecting some of those forest areas. However, they are saying, "Please give us a bit more time. Give us all the information before you go ahead and start something that is irreversible." At the moment the roads are going into that area, but shortly there will be logging. Once that starts, it will put a dent in this Greater Beedelup National Park proposal.

I am informed that people from this group who have spoken to the Manjimup regional office of the Department of Conservation and Land Management have been told that the logging of Carey 10, the area about to be logged, will produce about 7 000 tonnes of first grade jarrah sawlogs and provide work for five to seven employees for a period of three months. That is not a large number of people who will be employed in that time. It does not take account of the asset that would otherwise remain if that area were undisturbed. It also does not take account of the fact that at the end of the day not only is it old-growth forest but also it is high conservation value old-growth forest. The Government is not taking seriously that asset that could be protected in many instances for a better use in the future.

A similar situation exists with Boorara, which is high conservation value, old-growth forest situated near Northcliffe. Since last week, actions in Boorara have been very disturbing to many of us. I will make more mention of that in a moment. The Department of Conservation and Land Management proposes to log three old-growth karri coupes in Boorara which have been interim listed with the Australian Heritage Commission; that is, these coupes have been independently assessed and found to have high conservation value and have been deemed to be set aside in the register of the National Estate. Roadwork has now been completed and logging has commenced. That is causing a lot of angst in the Northcliffe community. During the past week, and even today, I have been contacted by local people in that area who have told me some of the events that are going on. I believe the situation there is very volatile and dangerous. I will highlight that in more detail in a moment.

Before I do that, I will bring to the attention of the House some of the pieces of information that have been given to me about what I believe is happening to protesters in the forests and what may be emerging as a big safety issue for them. I urge the Government to take action before a death or dreadful accident occurs in the forest. I want to go back to nearly a year ago. Given the comments, statements and reports that have been given to me, I believe they would also have been given to the Government and the Government must be aware of them. I will read a statement that was sent to me and written in May 1999. It refers to a group of protesters who at that stage went to Poole block. They point out that four of them went into the block. They heard chainsaws and so they moved away because they felt it was unsafe. However, they saw a man with a chainsaw who had stopped using it, so they waved, whistled and got his attention. They approached him because they wanted to talk to him about what was going on.

What happened then really turned into a farce. If it were not so serious, it would be quite funny. However, it highlights that in these volatile situations, people are at risk. The man who was using the chainsaw got rather annoyed with the people who were talking to him about what they thought was going on in the forest and about what they thought are the forest values. He said to them, "You are going to stop me working." Then he said, "I will show you," and he started pulling the chainsaw cord. The chainsaw would not start at first and the people rapidly backed off. The man managed to get the chainsaw going. According to the statement I have been given, he was apparently yelling, "I will cut you bastards in half!" He lunged at them with the chainsaw going. Fortunately the chainsaw stalled, but he quickly put it on the ground and started pulling the cord again. At this stage, the couple were running. In their words, "We knew then we had a maniac on our hands." He was then yelling further abuse, including, "I will kill you greedy bastards. I will cut you" - I will leave the

expletive out - "in half." They ran so fast that they lost sight of him. Obviously he could not run as fast because he had a chainsaw. At that stage they took off some of their bright clothing because they realised it made them visible in the forest. The person who wrote to me described it as a very serious situation, one in which if she had stumbled, she believed she would have been in serious trouble. She described it finally as like being in a war zone and trying to survive.

I had a different type of account given to me in July last year when I visited Swarbrick forest. On that occasion, I was approached by Mr John Males. Subsequently, I asked some questions in Parliament about the treatment meted out to him. He also forwarded to me a statement, which I have here but which I will not read. However, I will summarise it. Mr Males went to Swarbrick forest and locked himself onto what was called a road dragon, which is basically a car body cemented into the road. There can be a whole lot of debate about whether people should be doing this and about their behaviour, but people believe very passionately that this is what they need to do to save old-growth forest. Mr Males was locked onto the road dragon for three days. On 30 June last year it was decided that he would be removed from that site. His statement reads -

The jackhammer is brought in it proceeds to drill into the cement metal mix approx 25 mm from Mr Males arm . . .

At that stage he was offered a set of earmuffs because obviously the noise was very loud. He says that he had no safety hat or goggles on and felt that he should have had those with the jackhammer being so close to him. The operation was unsuccessful, so they took the jackhammer away. However, a log loader was driven around and locked on to the back of the road dragon, with some 30 people looking on in terror. The log loader proceeded to try to lift up the block of concrete to which he was attached. Unfortunately, it did not have much luck and, as it lifted further, its front wheels lifted. Mr Males apparently then repeatedly requested that they stop and that they use some other means to get him off. However, they tried the machine again. This time the front claws were much closer, within inches of Mr Males' arm. The operator of the machine paused it, reversed it and began lining it up to have another go. At this stage Mr Males' buddy, who is called Steve - the process has always been that somebody doing this must have somebody else there with him or her - talked to him and said that it should stop. Mr Males agreed, and it was stopped. When he spoke to me about a month later, he was still shaken about the whole incident and still fearful of what happened. Later on the day of the incident he was taken to a doctor. The statement says that he was diagnosed with exhaustion, stress, sleep deprivation and a bladder problem because he had not been able to urinate while this was being done.

Some significant safety issues are involved. It is uncertain who was present who was qualified to oversee such a situation in which potentially, if there had been a slip-up, life and limb could have been put in some jeopardy. No safety equipment was offered to him at the time of the operation. On top of that, he believes that the fact that the equipment came so close to him indicates it was operating in an unsafe manner.

In spring last year, I put questions on notice to the Minister for Police about what happens in such circumstances. The response I got was initially reassuring. I was told that the police have a duty of care to respond to these types of incidents and that they also have a duty of care towards all people who are involved in such protests. However, when I went through in some detail, asking about the use of the jackhammer, safety considerations, the process of using the loader to try to lift the concrete block, digging the forks in and other parts in a question based on a long witness statement I was given, the answer I got was that the action was carefully planned and that in the police's view the man was never at risk and that all precautions were taken. Obviously, in such circumstances one gets a divergence of opinion. However, Mr Males was very shaken by that situation. I raised the issue because the protesters were concerned about the safety of the people in the forest. My problem is this: While the Government logs blocks like Carey and Boorara, which are high conservation value, old-growth forest, in the context of the community wanting that type of logging to stop, protests will occur. If it is not sorted out, we will see an exacerbation of these situations. I hope we will never see serious injury, or worse, and I hope the Government is listening to what is taking place in these very disturbing circumstances.

I turn now to complaints about what occurred in the Boorara forest block last week. These complaints were telephoned through to the Leader of the Opposition and me on 23 March, and involved people who wanted logging at Boorara to stop. One woman chained herself to a log and another to a tree nearby, and the Department of Conservation and Land Management and the police were called. Two police officers came from Bunbury and one from Northcliffe, and they used a chainsaw to cut one of the women from the tree. When they were having some trouble, according to the document, the officers used a plunging type movement around her arm. The people involved believed that this cut close to her arm - it was within inches. She was also concerned that the log being cut could roll onto her. She pointed that out and asked the officers to remove the part of the log which could roll onto her, but she was told that she should have thought about that before then and that it would not be done. She was petrified for not only her arm, but also other parts of her body.

One of the carers is often removed in such circumstances. Therefore, people have no backup with a buddy or somebody sensible who is more objective and can say to the person locked on, "Stop it, please; that is enough." That process needs to be thought through so we do not see more severe injuries. Similarly, another woman had her arm chained and a jigsaw was used from below to free her. When that failed, police apparently used a hammer and chisel to dig further, and later used a chainsaw. These are serious issues. These actions are being taken by people concerned about what is taking place in our forests, and this action will continue unless the Government takes some action to reassure people to get them out of the forests. I fear that one day we will have an accident in which someone will be badly injured.

I turn to another matter raised with me regarding logging in Boorara; namely, the application of dieback protocols. I received a statement from people in Northcliffe. I am told that CALM is not abiding by the dieback protocols with the work

in Boorara. Apparently, gravel extracted for roads is from zones marked as dieback infected, which is a serious claim, if true, as CALM is spreading dieback through the area. I am informed that dieback hygiene protocols have improved, but only after people had raised concerns. Also, this statement informs me that a wash down unit is present and is applied to vehicles operated by Sotico Pty Ltd, but not consistently applied to the road construction machinery and certainly not to all CALM and police vehicles. The Government should check out this claim, as dieback is an important issue which does not receive a lot of attention. We must ensure that the people who put protocols in place abide by them. People are also concerned that they are refused information on dieback. They are given only simple information which does not help them understand the situation. They would like specific information, including ground truthing and photographic recording, so they know what is taking place.

A final concern expressed to me about Boorara relates to the width of the stream reserves. It is alleged that only minimum stream reserves are being left. The Government has made good statements about stream reserves and surrounding buffers, but the statements are meaningless if the buffers promised are not provided.

Serious things are happening in our forests. First, high conservation value, old-growth forest continues to be logged. Unfortunately, protests will continue while that happens. I reassure the House and the public that the Labor Party would not be logging these blocks if it were in government. Our policy is to stop logging in old-growth forests. We will honour contracts up to 2003, but anything of high conservation value will not be logged in that interim period. The two blocks to which I have referred are on the register of the National Estate and have high conservation value. A Labor Government would not log them.

The other serious issue raised today is that if sensible action is not taken, we will see a greater disaster with people in the forest. That demands the attention of all members of Parliament.

Mr Omodei: How will you maintain the contracts to 2003 without logging native forests?

Dr EDWARDS: We will log in native forests; we have been very clear on that point. Our policy spells out that we believe there can be a sustainable industry in native forests - we hope in perpetuity. The minister knows that. With 900 000 hectares of regrowth in this State, I think we would all agree on that point. When the minister provides more information, we will have more specific plans. The minister will not tell us how many cubic metres of old-growth timber was logged in the last financial year! I cannot believe that the minister does not know. When the minister lays all the information on the table, we will happily respond. The Government should not be hypocritical and ask us to be more specific without providing the information.

MR MCGOWAN (Rockingham) [4.27 pm]: I support the motion moved by my colleague the member for Maylands, who has adequately put her argument concerning these forests and the significant issues confronting the State. The last time I spoke on this matter, I concurred with the Deputy Leader of the Liberal Party. I said that this is one of the most significant issues, if not the most significant issue, to be addressed by government in this State in the last decade. That is true. It will resonate throughout the community in the lead-up to the next state election. The policy agreed to by the state Labor Party is correct. Western Australians and other Australians in generations to come will be thankful for these forests if the ALP is successful at the next election.

Readers of letters to the editor in *The West Australian* this morning will have noticed a letter stating that the Premier indicated that he was listening to the community on mandatory sentencing. The Opposition is listening to the community view on that matter. The letter poignantly asked why the Government is not listening to the community on old-growth forests on which it has expressed strong views. It stated that the Government appears to listen to the community in only one debate and not others. It listens to views on mandatory sentencing for home burglary, but not on old-growth forests. Fortunately, the Opposition is listening to the community on both issues, and members on this side of the House will do the right thing on these matters when in government.

The member for Maylands raised some disturbing issues; namely, the ongoing destruction of the coupes at Boorara near Northcliffe and the old-growth forest at Carey in the south west. She referred to what is happening to people who do the right thing by their beliefs and try to protect those areas. The loss of areas of old-growth forest, particularly Boorara, which is an old-growth karri forest, is a significant loss for our State's tourism industry. I want to talk on this issue because, firstly, tourism is one of my shadow portfolio areas, and the loss of that segment of forest will diminish a tourism resource which is already significantly diminished to such a degree that some people would argue that there is already insufficient resource of old-growth wilderness for our tourism industry to survive and prosper to the degree that it should. Secondly, when the Government announced RFA No 2 - I recall it clearly - the Deputy Premier in particular said that old-growth karri forest would be protected. He referred to icon blocks and so forth, and the result of that announcement was that blocks such as Jane block would be preserved. The Deputy Premier was specific: Old-growth karri would be protected. However, we are seeing the destruction of coupes 1, 2 and 4 which are old-growth karri forests in the Boorara forest. The whole of the State, including the media, were given the impression that the Government's decision would protect old-growth karri forests. Every media statement put out by the Government since that time has said that old-growth karri will be preserved. This is a breach of that promise to the people of this State. Some areas of the media have been snowed in relation to karri forests. Some areas of media believe that the protection of old-growth karri forests is a dead issue. It is not, because this is about the destruction of coupes of old-growth karri forest.

I will talk about tourism and the loss of a potential future for some parts of the south west if our tourism resource, which is what these forests are, continues to decline. I will draw an analogy between these forests in the south west of the State and Fraser Island in Queensland. I remember the debates in Queensland in the 1970s. At the time a chap by the name of

John Sinclair, who was a school teacher who lived in Hervey Bay adjacent to Fraser Island, took up the cause of Fraser Island, the world's largest sand island. The Fraser Island ecosystem is unique. Mr Sinclair took up that issue and as a result was persecuted by the Bjelke-Petersen National-Liberal Government in Queensland. Mr Sinclair was subjected to a campaign of persecution as a result of his actions to protect Fraser Island. After many years the Goss Government was elected in 1989. It held a royal commission into what was happening on Fraser Island and the outcomes if logging were to cease. The recommendation of the royal commission was that logging on Fraser Island, the world's largest sand island and a unique and beautiful area, should cease and a structural adjustment package should be put in place for the people who work on that island. Employment opportunities in that area have boomed because of tourism. I did a tour of Fraser Island a few years ago. The number of tourists has exploded not just on Fraser Island but also in the adjacent areas along the Queensland coast. That is because tourism is a job intensive industry. It provides jobs not just for those people with skills but also for people at the other end of the labour market who may not have a great deal of skills, but who have a lot to offer. Tourism provides a great many jobs for those people. A great many of the people - I forget the exact figure - who worked on Fraser Island cutting down the trees and transporting them now work in the tourism industry in that area. A number of them are employed as rangers on Fraser Island. It would be helpful if a parliamentary delegation went to Fraser Island.

Mr Omodei: I will do a deal with the member. If he visits the forests of the south west with me I will go to Fraser Island with him, because I do not think he has visited the forest areas of the south west.

Mr McGOWAN: I have been into the electorate of the member for Warren-Blackwood.

Mr Omodei: Have you seen my chalets?

Mr McGOWAN: They have not been built yet. The Minister for Forest Products might be interested to know that the member for Willagee and I had a photograph taken outside what we thought was his farm. We were going to give the minister a copy, but we thought it might upset him.

Mr Omodei: I hope it is mine, because if it is somebody else's farm you might be in trouble.

Mr McGOWAN: There were properties on both sides of the road and one had Omodei written on it. Everyone commented on the property because it is surrounded by beautiful forests.

Mr Omodei: Were they old-growth forests?

Mr McGOWAN: I do not know.

Mr Omodei: The member does not know the difference between old-growth and two-tiered forests?

Mr McGOWAN: No, because I was too busy looking for chalets and I did not have time to look at the forest in any detail. I was also worried the minister would come out with a shotgun and have a go at us, so we did not have a great deal of time to look. I will take up the minister's offer. I am sure we will have a good time together. We might spend a week down there in one of his chalets. That would be excellent. The minister can no doubt pay for us both to go to Fraser Island to see what the Queensland Government did there. The number of jobs that the tourism industry in that area has provided for people who were involved in the logging industry is a fantastic example of what can happen. I should try to get over there again to look at it, because it was a spectacular example of what can be done and the jump that can be made from those industries into a tourism future.

I want today to talk about a semi-furore over the efforts of the Western Australian Tourism Commission to secure an environmentalist as patron of Western Australia's ecotourism industry. The Director of the WA Tourism Commission, Shane Crockett, is a good administrator. He has a degree of flair and the ability to get things done.

Mr Omodei: Can you tell us what this has to do with the motion before the House?

Mr McGOWAN: The Minister for Forest Products is not the Speaker. I recall that the Speaker had a few words to say to the member for Warren-Blackwood yesterday.

Mr Omodei: I thought it was the member for Yokine.

Mr McGOWAN: No, I am sure it was the minister because he was looking sheepish.

The Opposition wants a tourism future for some parts of the south west. My comments relate to what is happening in the WATC to find an ecotourism patron for Western Australia's ecotourism assets, in particular the forests in the south west. The WATC made some effort to acquire somebody with environmental credentials to act as Western Australia's ambassador-patron for the ecotourism industry. Ecotourism is one of the fastest growing industries in the world. My electorate supports some ecotourism activities with dolphin dives and the Penguin Island facility. That area attracts a huge amount of interest and tourist dollars. The Tourism Commission wanted to obtain the support of a recognised environmental figure to become the patron of our ecotourism industry. The commission went to Dr David Suzuki, who is probably one of the most famous environmentalists in the world. It was negotiating with him to become patron of the ecotourism industry. The negotiations were ongoing when the Minister for Tourism got wind of them. He intervened and said the Government would not allow that to happen, although in question time yesterday he appeared to deny that. He said he had nothing to do with the decision, although *The West Australian* has reported that he had something to do with stopping this campaign. I suspect in any event that the minister misled the House last night.

The central point remains that the minister intervened because the most respected, prominent and internationally recognised

environmental figures in the world are dissatisfied and unhappy with the approach taken by this Government towards the conservation of old-growth forest. This Government was afraid that if it acquired the services of someone as renowned and respected as Dr David Suzuki, he would expose the Government's efforts in relation to this State's old-growth forest for what they are. Because of the Government's policies on old-growth forest, this State has lost forever the opportunity of someone with the credentials of Dr Suzuki becoming involved as the patron of an ecotourism body. That is certainly lost in the foreseeable future because of the political fear of the Minister for Tourism that Dr Suzuki would make some adverse comments on the Government's policy on old-growth forest.

I turn now to another point relating to forests, the Regional Forest Agreement and the views of the tourism industry on that subject. The Western Australian Tourism Commission presented a submission on the regional forest assessment public consultation paper, in which it outlined its views on the RFA. It is relevant to the points made by the member for Maylands on the Boorara and Carey blocks. This paper presented by the Tourism Commission details how significant these old-growth forests are to the future of the tourism industry. It is the fastest growing and most significant industry in the world. The first issue mentioned in the paper was identification and security of resource for the tourism industry, and it states -

The following areas should be reserved and logging activity excluded under the RFA:

One of the 10 most significant blocks listed is the Carey block which is described as follows -

This forms a bridge between Warren, Hawke, Charlie and the Greater Beedelup Park areas.

The commission said specifically that Carey block should be preserved for the future of the tourism industry. This paper, which I remind members is from the government-funded tourism body and relates to government policies on old-growth forests, also states -

The preference of visitors is to experience a sense of awe and wonder at the sheer size and majesty of what surrounds them. People want to feel a part of something that is greater than themselves.

The tourism industry is concerned that with the clearing and logging of WA's South West forests that has already occurred, there is now insufficient forest to be classed "Wilderness" under the nationally agreed size threshold.

Already there are significant concerns in the industry that insufficient resources are available for the tourism industry to continue to expand and use that resource. These are significant concerns. This State runs the risk, with its actions on those two forest blocks, and in a general sense with its current policies on old-growth forest, of handicapping an ecotourism future for these areas because of its continued destruction of the most significant assets for that industry. I have been to the electorate of the member for Warren-Blackwood, probably more often than he has been to mine.

Mr Omodei: My girlfriend used to live in Rockingham, and I have been there plenty of times.

Mr McGOWAN: The minister's current girlfriend or his former girlfriend?

Mr Omodei: The one I am married to.

Mr McGOWAN: I seek an extension, Mr Acting Speaker.

The ACTING SPEAKER (Mr Masters): I do not have the ability to do that except by motion.

Mr McGOWAN: I have been to that area and it is a significant tourism asset that is under-utilised. It is about time we provided a better future for that asset. The actions of the Minister for Tourism with regard to Dr Suzuki are nothing short of scandalous, and they were motivated purely by fear of the political consequences of the Government's old-growth forest logging policy.

MR OMODEI (Warren-Blackwood - Minister for Forest Products) [4.46 pm]: I must say, in responding to the motion before the House, that the Labor Party is showing its true form and is being absolutely dishonest in the matter of forests. I remind members opposite of some of the achievements of the Government in this area in the past couple of years.

The Government has significantly increased the area of old-growth and high conservation forest ecosystems. It has protected them from logging, and increased the conservation reserves by 150 885 hectares. That means the total area of protected reserves in the south west forest region has increased by 12 per cent, and is now 1 047 200 hectares. Under the RFA, the protection of old growth increased by 45 700 hectares to 232 800 hectares, bringing to 67 per cent the level of old-growth forest in formal reserves, and 71 per cent when all road, river and stream reserves are included. In the ecosystems where old growth is rare or depleted, 100 per cent is reserved on the public land where possible.

The national forest policy statement signed by the Commonwealth Government and seven State and Territory ministers, including former Premier Carmen Lawrence, required that a representative reserve system be put in place, but did not require that all old-growth forest be reserved. It specified a figure of 60 per cent. Through the national forest policy statement a nationally agreed target for old growth protection was developed, and Western Australia has either met or exceeded this national target in each ecosystem wherever physically and legally possible.

The Government has also signalled the creation of 12 new national parks and 25 additions to existing national parks. I hope members opposite will be in the south west area when we declare those national parks. Further to that, the Government has accelerated restructuring of the timber industry by setting aside most of the karri after the year 2000. It has ensured that it minimises the impact on karri and tingle old growth between now and the end of 2003. The Government

commissioned a committee chaired by Professor Ian Ferguson of Melbourne University to work through the implementation of this policy in consultation with the community. I stress that it will be in consultation with the community. As a result, the committee recommended an immediate halt to logging in the karri-tingle old growth and the karri-tingle two-tiered forest, and the Government has done that. The committee also recommended that no logging of old-growth karri should occur in the sensitive areas of old-growth karri within the following 16 blocks: Beavis, Burnett, Carey, Dawson, Deep, Gardner, Giblett, Jane, Keystone, Northcliffe, Ordnance, Sharpe, Swarbrick, Thomson - Thomson was being prepared for logging and most of the road works were constructed - Wattle and Wye.

Mr McGowan: What is happening in Carey?

Mr OMODEI: We have set aside areas of sensitive old-growth karri. All the old-growth karri in Carey has been set aside. If the member wants to go to the Department of Conservation and Land Management, he can look at the mapping and see the areas of dieback and the areas of old-growth karri which are being set aside. Most of the areas where some logging had occurred have been cleaned up. There is a great deal of waste in those areas because the activities of protesters stopped contractors going in to get those logs. Many of the logs have been there for more than 12 months and have cracked, leading to a great deal of waste in those areas. The net effect of the Ferguson group's recommendation is that there will be an increase of more than 9 000 hectares in the area of old-growth karri which is excluded from logging. That means that over 86 per cent and as much as 90 per cent of the remaining old-growth karri will not be harvested for timber.

As part of the accelerated restructuring package the Government is committed to undertaking a review of the logging plans to minimise the use of old-growth karri in satisfying the current contracts. In addition, the logging plans for 2000, the indicative plans for 2001 and 2003 and the strategies for community involvement have been released to the public for comment and the next stage of the logging plan is proceeding on the basis of that input. Therefore, the community is being given the opportunity to have input into the planning of future logging.

Should by some strange quirk of fate the Labor Party win the next election, members opposite, particularly the member for Maylands, will need to take a reality check on what is happening in the forest industry. The member for Maylands chooses to talk to people whom she holds up as pillars of society, people who protest and stop others from going about their lawful business; the member for Maylands holds these people up as people who should be respected. The member talked about Mr Males and the problems he experienced when he was being cut out of the concrete block in the middle of the road. At one stage CALM confiscated a couple of tonnes of pipes and lock-on devices which were to be used in logging coupes. I feel sorry for Mr Males in relation to his urinary problems but that does not stop people from dirtying themselves so policemen cannot unlock them from vehicles. Members might think that Mr Males' problem was serious but there are serious problems in our forest. By the way, there are no policemen in Northcliffe, they are in Pemberton, Manjimup and Denmark; they leave their normal business to ensure that people can go into those forest blocks to work. Bernie Elwin is the current contractor at Boorara and he must take his machinery out of that block every day because if he does not, it is interfered with - damage to the tune of tens of thousands of dollars is being done to machinery.

If the Labor Party thinks that is good and that those people should be respected for that, I ask members opposite: What in the hell are protesters doing going up to a fellow who is using a chainsaw in the forest? If members had any knowledge of what it is like to cut down a tree in the forest, they would realise that it is a very dangerous occupation. We lose on average one feller in the forest a year as a result of felling accidents. Many of those people have been felling for 25 or 30 years. They die under tragic circumstances leaving families behind. If members opposite suggest that we should not fell trees - that appears to be part of the Labor Party's policy, particularly the conservation movement - they and particularly the member for Maylands should acknowledge that it will not stop protesting until all logging is stopped in native forests. If by some chance the member for Maylands becomes a Minister for the Environment or Forest Products some day, she will have to deal with this issue and these people. To coin a phrase, it is far more sexy to thumb lock oneself onto a machine which is being used in the bush than it is to thumb lock oneself onto a rising watertable. If members opposite were to get some of those people to put more energy into the issue of salinity - which is a major issue in country Western Australia where rising watertables are affecting not only farm land but also buildings in towns around the State - they would be putting their energies to good use.

Dr Edwards: Is this a vote of no confidence in your salinity action plan?

Mr OMODEI: No, it is not. I would have thought the member would have asked me about the maritime pine project in which we are planting many thousands of hectares.

Dr Edwards: I am sure you will tell us in great detail.

Mr OMODEI: Now that the member has raised the issue I should not miss the opportunity. The Government has spent \$8m on the Manjimup plant propagation centre. Instead of going down there and piddling on my front post and taking a photograph of it the member for Rockingham should have gone to the plant propagation centre and seen that magnificent facility and the 130 young people who are working there. Roughly 20 million plants will come out of the centre this year. Many of them go to the wheatbelt, to the electorates of the members for Moore, Merredin and Roe, to combat salinity. Land conservation district committees visit the plant propagation centre to see its activities. It is a very good project and something of which I am very proud.

When members talk about people going into the forest, we should get it clear. It is dangerous for anybody to go near any logging operation, even if one is aware of how chainsaws and heavy machinery operate in the bush. When a tree goes down, the undergrowth throws back the small limbs - known as sailers - and a significant number of people have been killed

in the bush as a result of that activity over the years. One can see their graves in the cemeteries in timber towns all around Western Australia. If members talk to the fellers who saw this issue as a bit of a joke when it first began with the people with the long hair, earrings, nose rings and all the other rings, the bare feet, the guitars and the bongo drums, they will find that -

Mr McGowan: You are talking about the 1970s.

Mr OMODEI: No, I am talking about the people who were on the front steps of Parliament House two weeks ago.

Mr McGowan: You often raise this point about the people who protest about logging in old-growth forests and you often say that they do this or that wrong, but you never acknowledge that the other side of the debate has also acted in inappropriate ways. I recall being out the front when people were singing songs about killing the Leader of the Opposition.

Mr OMODEI: The member for Rockingham can go on for as long as he likes, but the very big difference is that one part of this debate is going about its lawful business in providing a resource which is used in 18 000 of the houses built in this State every year, mostly in Perth where forest is destroyed hand over fist but about which we never hear anything from the Labor Party. Many of the grass trees which are being destroyed in metropolitan Perth are hundreds and hundreds of years old, but we never hear about them. More land is being cleared for urban purposes in Western Australia at the moment than is being cleared anywhere else. At least the land which is being cleared for wood production is being regrown. If I drive home to my electorate tomorrow, I will go through Cowaramup to Margaret River. I will travel on Rosa Brook Road, on to Mowen Road and then turn off to Nannup, on to Waistcoat or Sears roads and down through Bannister or Gloucester roads. I can travel for four hours and see about three paddocks. When members opposite try to verify the myth that all the forest in the south west is being clear felled, they are propagating a lie. That is something which concerns people in the south west. Do members think the people who live among the forest, who love the forest and who have grown up there, would want to destroy the forest? Those people know that the forest regrows. They know that 53 000 hectares comprising 70 coupes in the Shannon National Park which were cut between 1950 and 1970 are regrowing. They know that when they go to the big tree lookout or the heartbreak trail in the Warren National Park, or to Yeagarup past Deadman's Lake - which I will talk about later in relation to ecotourism - there are large areas of national parks.

The ACTING SPEAKER (Mr Masters): I am about to hand over to another Acting Speaker and I owe an apology to the member for Rockingham, I should have given him an extra 10 minutes. It has been pointed out to me that I was looking at the wrong section of the standing orders.

Mr McGowan: The apology is accepted.

Mr OMODEI: People living in timber communities in the south west and the central and northern forest regions, such as Dwellingup, Collie, Bridgetown, Greenbushes, Nannup and Pemberton, know that large areas have been set aside in secure reserves in perpetuity that people can visit tomorrow. When travelling to Pemberton on the way down from Manjimup, one can visit the Smith Brook reserve, which is 800 acres of magnificent old-growth forest only 15 minutes out of Pemberton. Further down is the Gloucester National Park, which surrounds the Gloucester Tree, and which was clear-felled in the 1930s. Big Brook Dam is in the middle of the Big Brook Forest and was burnt by bushfire and then clear-felled in 1930. It is magnificent, regenerated forest. Treen brook is on the Vasse Highway, on the way to the electorate of the member for Vasse. Magnificent stands of karri have been thinned and are growing like candles in that locality. Many of these areas are reserved. The Opposition would have us and the general community believe that the map of Western Australia fits on an A4 piece of paper. It does not. There are large areas of forests and members should take a trip down the logging road. It is a big, wide road and on the way they will meet the odd truck or two. They will also see regeneration of different ages. It is good to drive at twilight through the forests that have regenerated; it is like driving through a tunnel.

The member for Rockingham commented on Fraser Island. The Queensland Government reserved Fraser Island, but it did not reserve all the forests in Queensland. It reserved parts of it, as this Government has reserved parts of the Western Australian forests. Tree Top Walk is in an area that is proposed to be national park. It is only 13 acres and half a million people have walked on it. It does not cover a large area of national park. If members have been to the bush in the summer, they will know that most people do not want to walk into the thick scrub because reduced burning activities means there is a lot of undergrowth in the forest. Not too many people will walk into a thicket. People will walk along a road or track, which is normally the result of past logging activity. Not too many people travel off the beaten track during winter because they will be soaking wet within five minutes. Members should not talk nonsense and say that all the forests are being knocked down. The Boorara block is being cut, but the Northcliffe community was consulted about it. It is not unique forest; there are others areas around Northcliffe such as Northcliffe block, Dombakup and Hawke, which is a bit further north. There are also areas of old growth in Gardner, Jane and Northcliffe that are excluded from harvesting. Boorara is not the only forest in Northcliffe. A petition was circulating one or two years ago in which two-thirds of the people were in favour of the timber industry. I do not know where all the people who oppose the timber industry in that area are.

The member for Maylands mentioned dieback management. Over many years, the Department of Conservation and Land Management has spent millions of dollars on dieback research to stop the spread of the disease. The mapping of dieback is comprehensive. Hygiene control is an integral part of timber harvesting, as is fire control. All other activities by the department and anybody who goes into the forest take due deference to the hygiene controls that were put in place as a result of the outbreak of dieback.

Nobody would understand the tourist industry better than I. For more than 25 years, I have been involved in my community in public positions and I have lived there all my life. Sometime in the future I intend to establish a tourism-type

development on my property. My family will do that, because while I am doing this I do not seem to have much time to pursue those sorts of things. Tourism is important to the area. A report in the 9 March 2000 issue of *Business News* talks about a study the Edith Cowan University Australian Management and Development Research Centre carried out for the Home Building Society Ltd to indicate the future growth prospects in the south-west region, which could have a bearing on the society's growth in the south west. The report showed that the agricultural, forestry and fishing industries account for 2 700 businesses in the south west. The retail sector is the next largest, comprising a little more than 1 000 businesses. A total of 355 businesses are involved in the tourism industry in the form of accommodation, cafes and restaurants. Dr Watkins, who was part of the research, dismissed tourism as a real alternative to those larger industries. However, I believe it is an integral part of the economic base of the south west. The horticulture industry is growing significantly, particularly avocados. There is a niche in the lower south-west area in which avocados that would compete on the American market can be produced in quantities. They also fit well with New Zealand and its growing slot. Significant areas of avocados are emerging in areas that were once covered by old-growth forests. They grow very well on good, deep karri loam. The other sector that is growing exponentially is viticulture, whether it is prospectus-driven or through overseas investors. An investor recently came into the Pemberton area and bought a property for about \$3m. It is a European investor who intends to grow 300 acres of vines and establish a large winery. BRL Hardy Ltd intends to come to Nannup and build a significant winery halfway between the Margaret River wine-growing area and the Frankland River area near Mt Barker, which will be a great boost. There is great potential for viticulture growth. A number of wineries are expanding their facilities in the Pemberton area, which is generating a great deal of activity and jobs. Apart from the physical activity of planting, training and picking the grapes, there will be lucrative opportunities for viticulture consultants and irrigation installation and sales.

Manjimup, a town of 5 000 people, supports five merchandise businesses that sell fertilisers, chemicals, irrigation equipment and expertise in the horticulture areas. They have survived for more than five years and some have been there for many decades. That is an indication that the economy is alive and well in those areas. The economic base is fairly stable. The unemployment rate in Manjimup is 4 per cent and in Pemberton it is 3 per cent. The accelerated restructure of the karri industry, which is a result of the cessation of logging in those 16 sensitive old-growth blocks, will have a significant effect on Pemberton. The Government is working assiduously to find a strategy that will ensure at least one shift can be maintained in Pemberton. The Government is talking to the forest products industry to see how long it will be before the plantation sector can provide sufficient millable logs. There are not many millable logs at the moment. Technology for cutting smaller logs is available in the Pemberton mill and in some of the smaller mills. The Government is putting a lot of emphasis on the value-added side of the industry and many positive stories will come out of that. Not much has been said about the value-adding industry during this debate. We never see any film or photographic footage of the furniture industry in the print or electronic media. The three big exporters of outdoor furniture in Western Australia now export \$25m worth of furniture. The value of the total industry is somewhere between \$50m and \$80m at the moment. We believe that we can well and truly exceed the \$100m mark in that industry within five years - within a short period. The Government is giving every incentive to those people and the people who are currently taking over the Greenbushes mill. Part of it will be milling sawlogs, mainly jarrah and some karri. Greenbushes will be value adding that timber to create a centre of excellence. The same is being done at Nannup. Southern Timber Company has advertised for expressions of interest to buy its mill. An amount of 20 000 cubic metres has been allocated to that mill, so that will create a centre of excellence in timber at Nannup. There is no reason that at least one shift could not be maintained at Pemberton and to value add some of the karri, albeit some of it will be regenerated karri, and to possibly make use of new technology to value add *Eucalyptus globulus* or some plantation timber at that site.

The arguments put forward by the Opposition about what is happening in the south west forests would be resolved very quickly if the Labor Party were to adopt the same kind of attitude to forest management that existed when it was in government; that is, a bipartisan approach to the question of forest management and to the provision of logging plans and forest management plans. I remind members opposite that in the 1980s and early 1990s there was bipartisan support for the provision of management plans and for management of our forests. We did not have the same conflict then that we have now. The day that changed was when the Leader of the Opposition, Dr Geoffrey Gallop, decided to make a political issue of the management of forests.

Mr McGowan: You tried to create a political issue of the Shannon River basin in 1989.

Mr OMODEI: I did not. That is not true. One reason I joined Parliament related to the Shannon River National Park and the Labor Party's desertion of its support base. For 50 years the people of the timber industry in this State supported the working man's party. I put to the member for Rockingham that it is no longer the working man's party; it is the airy-fairy, arty-farty party, and that is why it should never get back into government.

The issue of forest management is very important to the economy of the whole of the south west region. That seems to have passed by the Opposition. If it has not passed it by, it is deliberately adopting a divide-and-conquer strategy which pits city people against country people and which creates divisions in those country towns. I find that unpalatable. Families who have worked and lived together in harmony over decades since the early settlement of Western Australia are being divided because of the policy of the Labor Party, which seeks to divide communities over the logging of old-growth forests.

The Government acknowledges a sentiment in the community about what is a prime karri tree. Nobody would be comfortable to watch a beautiful, mature, old-growth tree being felled. The reality is that from those trees we recover up to 40 per cent for karri and a percentage in the low 30s for jarrah. Fifteen per cent is sawdust. Some is bark, some is chipped, and it is returned to us as fine paper. The rest goes to constructing buildings that require long, straight boards and polished timber - things that people use in their houses. That is what timber is used for. We regrow it and regenerate it. At the same time, we reserve it in perpetuity. All the ecosystems have been preserved.

Mr McGowan: Ninety per cent of Western Australians disagree with you.

Mr OMODEI: It depends upon the question that is asked. If people are asked whether they support using timber in their homes and whether they support beautiful tables being made from old-growth forest, they would say yes. I put to the member that it is not easy for the farmer who produces prime cattle, or any prime product, that is slaughtered or whatever. Has the member ever been to the abattoir? Has he ever seen a two-year-old steer having its throat cut? It is not very nice. However, I bet that at the next barbecue he attends he has a nice Scotch fillet.

The Government opposes the motion that has been moved. I agree with the member for Maylands that serious incidents are taking place in the south west forests. Those incidents involve people going to that area and stopping others going about their lawful business. The Labor Party should advise those people not to do that in the forest. They should not do it when they can put people's lives at risk. If they want to lobby the Government, they should do that on the steps of Parliament House, through the mail or through the media, but they should not go down to that area. The faller who will go into the bush tomorrow knows he is engaged in a risky business. Most of those people have young families. The faller wonders from where the next idiot will jump out of the bush. He is not concentrating on whether a limb is hanging above him, whether a limb is on the next tree or whether a dead tree is behind him. That is what happened to the last faller who was killed. He was killed by a dead tree that was behind him. He was concentrating on the tree that he was felling. That person was a great champion of the people of the timber industry and of timber fallers. His name was Trevor Cederman. He was an ex-Kiwi. He came to Western Australia and had a large input into WorkSafe's codes of practice and codes of conduct for people working in the bush, particularly fallers. He was killed in the bush. He was a careful man with a young family.

By moving this motion, the Labor Party is encouraging that radical group of people in the community who go into the forests. I get angry about this, because I see a group of people who supported the Labor Party and the Labor Party is doing them in the eye at the moment. I see a valuable and sustainable industry in this State which can be held in perpetuity so that everybody can benefit from it. I see a group of people who are being pitted against each other because of outside influence and political influence. The Labor Party should take stock of itself in this debate. If tomorrow it comes back into government - heaven forbid that it does, because members opposite do not have the brains to run a government - it will have to address this issue. I have said in this House previously that if the Labor Party stops logging old-growth jarrah beyond what has already been set aside, it will affect Deanmill, which has the main jarrah sawlogging mill and which value adds 80 per cent of its timber currently. Members opposite should go to the mill to look at the picker stacker and the drying kilns. Many millions of dollars have been spent there. This relates to royalty payments. That is why we increased royalty rates to 16 per cent and 19 per cent for the two major timbers. Great debate took place at the time. The Government did not continue to increase the royalties because it wanted to encourage the industry to value add, which it has done; it responded admirably. If one goes to the small mills, one will see little drying kilns dotted around the whole industry. It is important that the Opposition understands that if Deanmill is reduced by even 25 per cent or 30 per cent, it will have a major impact on the Manjimup processing centre. It will have a major impact on the \$24m of export timber that goes out in the form of furniture at the moment. It will affect the people who make the furniture, like that in the Premier's office and in the parliamentary meeting rooms in this building. It will affect the people who did the work on the southern entrance to this building, with the beautiful furniture and the windows. It will affect the people who put the parquetry into the main entrance of Parliament House.

Mr McGowan: Is that all old-growth timber?

Mr OMODEI: Yes.

Mr McGowan: And the timber at the front is as well?

Mr OMODEI: I would stake my reputation on it.

Mr McGowan: You used old-growth timber in the front foyer of Parliament House?

Mr OMODEI: Yes. If the Labor Party continues along its present line and those people at Deanmill and the Manjimup processing centre are affected, it will mean that 30 per cent of businesses in Manjimup will go out of business. We will see the demise of businesses throughout the south west, including in Bunbury, which is the major regional centre.

The timber industry and the agricultural industry consume a large amount of fuel. There are three major distributors in Bunbury who provide fuel for Manjimup. One of those distributors provides \$20m-worth of fuel to the Manjimup district. If we start to make inroads into this sustainable industry that has been very well managed over the years, it will have a major impact on not only the towns in the lower south west but also the regional centre. We cannot ignore the fact that any further erosion of the timber industry in the south west will have a massive impact on employment and business viability in that area. At the moment, the south west has a diverse economy, with agriculture, tourism, the timber industry and some mining. That is the reason that the unemployment rate at Manjimup is only 4 per cent and in Pemberton is 3 per cent. If we interfere with that mix, we will create serious problems for the economy of the south west.

I reject the motion. It is out of line, it smacks of opportunism by the Opposition, and it shows that it does not know what it is talking about on these issues.

MRS EDWARDES (Kingsley - Minister for the Environment) [5.21 pm]: I support the comments that have been made by my colleague the Minister for Forest Products. I cannot add a great deal to the comments that he made, but I will reflect on a number of matters. The first matter is the status of the areas that were formally proposed as reserves under the current forest management plan. The status of those areas at this time is state forest. However, those areas will not continue

towards the process of gazettal, because their biodiversity and conservation values do not fit the criteria that are set up under the Regional Forest Agreement to assess particular blocks, and it has been found that there are higher levels of biodiversity in other ecosystems, and those areas have been set aside for reservation.

The matter of the Preston forest block has been raised with me by the members for Bunbury and Mitchell, and when I visited Bunbury not long ago for a regional cabinet meeting, I met with some residents on that block. That block was proposed as a conservation park under the current forest management plan but was not gazetted. Its current status is state forest, and under the Regional Forest Agreement it is intended to remain state forest. There are a number of reasons for that, one of which is that the biodiversity/conservation values of that block have not been identified according to the nationally agreed criteria for the development of the reserve system. However, one of the issues that was raised was old-growth forest, and some field checking in Preston found that the area of old growth was contained within and just outside of the Bibbulmun Track reserve. We are looking at what we can do to reserve the old-growth area that is contained within that block, and I will soon have some good news for those people in Mitchell and Bunbury.

Some misinformation appears to be floating around that the RFA has changed those areas that have been gazetted. That is not the case. No gazetted area will have its status changed. Clause 9 of attachment 1 of the RFA makes the commitment that -

Areas that were proposed as a formal reserve in the Forest Management Plan 1994-2003, but are now intended to remain as State forest under this Agreement, will continue to be managed as a proposed reserve in accordance with the Forest Management Plan 1994-2003, until a new Forest Management Plan that implements a change in intention is gazetted.

There will be further opportunities for public comment on those areas as a new forest management plan is developed, including statutory consultation and environmental assessment processes under the Conservation and Land Management Act and the Environmental Protection Act.

Another matter on which I want to comment, because it also comes under my portfolio as Minister for Labour Relations, is the issue raised by the member for Maylands of safety in the forest blocks. Some people in the community, particularly protesters, presume that the Occupational Safety and Health Act provides protection for them in a workplace. The long title of that Act states that it is an Act to promote and improve standards for occupational safety and health. That Act is certainly not designed to protect people who put themselves deliberately at risk, which is what the protesters are doing. The protesters are also putting at risk the lives of people who are lawfully carrying out their work. Sections 20-22 of the Occupational Safety and Health Act provide for the duty of care and in particular that employers, self-employed persons and employees must not adversely affect the health or safety of any other person through any act or omission at work. However, section 47(1)(e) of the Act states that a person who directly or indirectly prevents another person from complying with a requirement under this Act commits an offence. Therefore, not only is the Act not designed to protect protesters, but also protesters potentially put themselves at risk of breaching section 47(1)(e) of the Act. Some realism needs to be put into this debate with regard to the unsafe practices of the protesters in that workplace, because it is a workplace.

Dr Edwards: Is a penalty attached to that?

Mrs EDWARDES: That is obviously picked up in another section, and I will provide the member with that information. The workers in that environment stop logging as soon as they see a protester. However, whether they can stop their logging activity safely depends on the particular circumstances and on how far into the tree they have cut. Last year, sections of a cut had to be put back into a tree for a short time in order to protect the protesters. Logging can be suspended safely if the tree in question has been cut into only a short distance, but in some instances that is not possible, and when a protester is deliberately putting himself and the worker at risk, it creates the potential for someone to be seriously hurt.

I implore the Opposition as well as the protesters to consider their actions and what they are doing. The Act is not designed to protect those who put themselves at risk deliberately. These people are not just passers-by and they are not just walking into the forest. These protesters are deliberately putting themselves and others at risk. They are potentially in breach of a section of the Act and therefore, it has become in some instances a serious matter. Where there have been genuine areas of complaint, WorkSafe has responded. However, as indicated in this House previously, other authorities - the police and Department of Conservation and Land Management - have their own legislation. They sometimes have better knowledge and expertise to defuse those situations.

Again, I implore members opposite and the protesters to consider carefully what the protesters are doing; they are putting themselves and others deliberately at risk and are creating unsafe workplaces. Too many lives are lost in Western Australia through unsafe work practices. One life lost is one too many. These people are putting themselves and others at risk and I again implore them not to do so. They should continue their protests passively.

DR EDWARDS (Maylands) [5.32 pm]: This is an interesting debate because the motion will be defeated along party lines. However, when the issues are teased out we find that there is a lot of common ground between the Opposition and the Government. The Minister for Forest Products suggested that there should be a bipartisan approach to this issue. I believe that we would be comfortable with that. However, we only want that if the Government moves to our policy position. At the moment the policy positions are different. The minister is asking the Opposition to move to the Government's position. I am afraid that is not possible.

We gave our policy a lot of thought before we put it before the public. The Leader of the Opposition and I visited New

South Wales to find out how changes in forest management had been implemented there. Of concern to us was how the workers were managed. The Opposition is heartened by the fact that many of the changes we heard about in New South Wales are being put into effect by the Minister for Forest Products.

There is common ground on issues like value adding and giving the industry the ability to retool some of its operations so it can use smaller logs to help in that transition out of the old-growth forests.

Mr Omodei: They already have the technology. They have two small log lines at the Pemberton mill. If the member went along to the mill, she would see it. They have been there for years.

Dr EDWARDS: Some of the people in the industry argue that they do not have the technology needed to make that shift. We may be talking to different people.

Another interesting issue we have heard about in this debate is the career change that the Minister for Forest Products plans at some stage in the future. He will obviously be the Bob Jelly of some sea change between Manjimup and Pemberton. We look forward to hearing about the minister's escapades and adventures. We wish him all the best! Serving cappuccinos! The mind boggles.

If members listened to the Minister for Forest Products, they would get the view that we have always had a huge work force in the forest industry. The reality is that, when considering the documents, particularly those associated with the RFA, the decline in the work force becomes apparent. Over time, the major decline in the work force has been associated with mechanisation. A long time ago when people were cutting down trees with axes, a lot more people were required than are needed now with the use of chainsaws. In more recent times we have seen what are euphemistically called harvesters so that even fewer people are required to work in the forests. The graphs show that the number of people employed in the industry has been falling. We therefore welcome all those other matters the minister raised in relation to the diversity of industry in the south west. Of course, we all want the viticulture, the horticulture and all the other industries the minister referred to. When we get into government, we will be helping those industries also. There are some good news stories. The point the minister is missing is that while logging continues in old-growth forests, particularly old-growth forests with high-conservation value, and while this Government does not listen to the great majority of the people, there will continue to be protesters in the south west. We have raised the issue of protesters down there because we believe a very serious situation is developing.

Mrs Edwardes: I have the penalty here. An offence under section 47(1)(e) would attract a fine of \$25 000.

Dr EDWARDS: I am pleased that the minister has told me that because some people I have spoken to have suggested that the Act would cover them. I am pleased that that is now on the record. If people decide to protest they will know quite clearly that they do not have a measure of protection they thought they had. Nevertheless, until the situation is resolved in a more satisfactory manner, people will protest and place themselves at risk.

The motion calls on the Government to stop logging high-conservation value old-growth forest immediately. I support that motion.

Question put and a division taken with the following result -

Ayes (17)

Ms Anwyl
Mr Brown
Mr Carpenter
Dr Constable
Dr Edwards

Mr Graham
Mr Grill
Mr Kobelke
Ms MacTiernan

Mr Marlborough
Mr McGowan
Ms McHale
Mr Riebeling

Mr Ripper
Mrs Roberts
Mr Thomas
Mr Cunningham (*Teller*)

Noes (25)

Mr Ainsworth
Mr Barnett
Mr Day
Mrs Edwardes
Dr Hames
Mrs Hodson-Thomas
Mr House

Mr Johnson
Mr Kierath
Mr Marshall
Mr Masters
Mr McNee
Mr Minson
Mr Nicholls

Mr Omodei
Mr Osborne
Mrs Parker
Mr Prince
Mr Shave
Mr Sweetman

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

Pairs

Ms Warnock
Mr McGinty
Dr Gallop

Mr Cowan
Mr Board
Mr Court

Mr Bridge

Mr Pandal

Question thus negatived.

GOVERNMENT TAXES, CHARGES AND FEES, TRUTH IN GST PRICING*Motion*

MR RIPPER (Belmont - Deputy Leader of the Opposition) [5.40 pm]: I move -

That this House calls on the State Government to introduce a truth in GST pricing policy for all state government taxes, charges and fees that attract the GST.

Not so long ago the State Government tabled a list of taxes, charges and fees attributable to the State or to local government which would attract the GST. There were 699 state and local government fees and charges on that list. The regrettable fact is that there will be more state fees and charges subject to the GST than those 699. At the time of tabling that list the Premier indicated that most health and education charges would not be subject to the GST. That leaves open the possibility that some health and education charges will be subject to the GST, yet on that list of 699 fees and charges there was no reference to either health or education charges. Equally there was no reference to charges that might be made in technical and further education. We now know, following the work of our spokesperson on employment and training, that there will be a GST levy on adult education courses which do not have a vocational orientation. It is clear already that there will be more state fees and charges affected than the 699 which have so far been revealed to the Parliament and the public by the Premier.

There is a second issue about which the State Government is required to reveal more information to the public and the Parliament. We know only about the cost increases for gas and electricity. The Minister for Energy has advised the Parliament that the cost of electricity will increase by 9.3 per cent and that he expected the cost of gas to increase by a similar amount.

Mr Barnett: Probably a bit more.

Mr RIPPER: What the minister said at the time was that it would be about the same amount; now he is saying probably it will be more. It is worth noting that when the tax reform package was originally made public by the Howard Government that public information included estimates of price increases that would apply in each sector. My recollection is that the price increase forecast for the electricity sector was 6.6 per cent. The very first announcement by the State Government of a price increase as a result of the GST has seen electricity charges increase by much more than was forecast in the tax reform package when it was first released by the Howard Government.

There are another 697 charges and fees to go. We do not have any estimate of the quantum of charges for those other 697 fees and charges on the list. We need two more pieces of information from the State Government: The additional state and local fees and charges that will be subject to the GST; and an indication of how much those fees and charges on the list, and those that are still to be revealed, will rise as a result of the application of the GST. One of the criticisms of the wholesale sales tax system at the time of the tax reform debate was that the wholesale sales tax was a hidden tax. One of the big criticisms was that people did not realise how much they were paying in wholesale sales tax on many different items. One of the touted virtues of the goods and services tax system was its so-called transparency. The goods and services tax was supposed to be more rational and more open than the wholesale sales tax system which it is replacing. Openness and accountability should be a feature of any new tax system.

The compliance costs for the introduction of the goods and services tax are onerous. I was reading an article from *The Australian Financial Review* which stated that the compliance cost for the introduction of the goods and services tax in Queensland Rail will be \$14.5m. It will be interesting to find out what the compliance cost will be for Western Australian public sector agencies. There is one certainty, the compliance costs will be high, just as they will be very high for small business. If we are going to invest in this level of compliance in order to have a new system, let some of that investment be devoted to openness and transparency in the way in which that tax is made apparent to the public. The other State Governments are adopting a truth in GST pricing policy. The Bracks Labor Government in Victoria announced that it would adopt such a policy on 22 February. It announced that the policy would ensure that all Victorian consumers were fully informed of the true cost of the GST on state goods and services. Equally in New South Wales on 29 February the Treasurer announced that the GST component in what consumers pay for New South Wales goods and services would be listed separately on bills and receipts. On 27 February the Opposition called for the Western Australian State Government to follow the lead of Victoria and to introduce a similar truth in pricing policy with regard to the GST. The Leader of the Opposition put out a press release to that effect. We got an arrogant response from the Premier which was all the more irritating because it was an incorrect response. I am one of those people who can tolerate a certain degree of arrogance in others if it is backed up by talent or by the right judgment. I find arrogance in others especially irritating if it is not backed up by talent or if it is advanced in support of a position which is wrong.

Mr Barnett: Truth in GST pricing sounds nice, but you have yet to explain what it means in a practical sense or what Victoria will do for its truth in GST pricing. What is it? It's a nice slogan.

Mr RIPPER: We will see as we go along, and I will talk about that in a little while. The Treasurer rejected the call of the Leader of the Opposition and claimed that a truth in GST pricing policy was illegal. He said on the Channel 7 nightly news on 27 February that the GST would not be on the bill itself because that is against the federal legislation. The Treasurer said that truth in GST pricing, which the Opposition wanted, could not be adopted because it was contrary to the federal legislation. The State Opposition naturally checked on that argument, and approached the Australian Taxation Office and the Australian Competition and Consumer Commission. They both confirmed that it was not illegal to explicitly show the

impact of the GST on bills and receipts. The Opposition had confirmation from those two expert bodies that the Treasurer's argument on television on 27 February was just wrong.

The Treasurer has confirmed that by now saying that the GST component will be shown on the accounts of Western Power, AlintaGas and the Water Corporation after 1 July 2000. If the Leader of the House wants to know what a truth in GST pricing policy is, perhaps he should ask the Treasurer because the Treasurer has said it will apply to bills from those three agencies after 1 July 2000. The Treasurer made that claim in a ministerial statement to this House on 14 March. It appears that the Treasurer implicitly conceded the truth of the Opposition's position, while never making a formal acknowledgment, when he made the ministerial statement to the Parliament.

Mr Barnett: The Treasurer is not here and your motion calls on the State Government to introduce a truth in GST pricing policy. It seems reasonable for me to ask you to explain what a truth in GST pricing policy is. Everything the Government is doing has been totally open. If the member thinks there is something new, above and beyond a slogan, he should educate me. I am willing to listen. There will be nothing untruthful or misleading, and the Government is doing all it can to make sure all prices are in compliance, explicit, accurate and made clear to customers in all services. We are working within the federal laws. The Deputy Leader of the Opposition should tell me what is a truth in pricing policy for the GST, other than a slogan. What is it that is not already being done? If it is a good suggestion, we may well take it on board. The agencies will accurately measure the GST on everything, and will display it, wherever practical, to consumers. It is in our interests as a State Government to do that.

Mr RIPPER: Is the Leader of the House saying that every state government bill which is subject to the GST will have the GST component indicated on the invoice or receipt?

Mr Barnett: No, I did not say that at all. Will it appear on train tickets? I doubt it. Wherever practical, we will make explicit on the invoice - certainly for gas, electricity or water charges and the like - any component of GST where it is practical in a billing sense to show it. If it is not - I do not know the situation in respect of public transport fares - the impact of the GST on those fares will be made public. It will be absolutely open.

Mr RIPPER: That sounds like what the Opposition is calling for, and perhaps it means the Leader of the House will support the motion moved by the Opposition. It seems to me that whenever someone is paying the GST, that GST component should be indicated on the bill or the receipt they receive when making their payment. I am not sure whether the Leader of the House has committed the Government to that. Almost 700 state and local fees and charges are already declared to be the subject of the GST. Will each one of those 699 state and local fees and charges have the GST component indicated on them when the charge is presented to the consumer of the good or the service? That is the key question. Beyond those 699 declared state and local fees and charges which will be subject to the GST, others are still to be revealed. Will they have explicitly revealed on the bill, receipt or both, the GST component when the bill and/or receipt are presented to the consumer? That is the question the Government must answer, if it says it is doing what the Labor Party thinks it should be doing. Certainly, the statement made to the House today by the Leader of the House is the first indication from the Government that it will go beyond the statement made by the Treasurer on 14 March, that -

In addition, Western Power, AlintaGas and the Water Corporation will indicate explicitly the GST component on their bills after 1 July 2000. This goes beyond the requirements of the commonwealth legislation.

The Treasurer has gone so far as to say the State Government will do it for Western Power, AlintaGas and the Water Corporation. Will the Government do it for all the other 699 fees and charges which have already been identified, and for the further fees and charges which no doubt will be identified at a later stage? This motion calls on the State Government to do that. The motion is urging the State Government to adopt the policy the Treasurer has said it will adopt with regard to Western Power, AlintaGas and the Water Corporation for each and every state and local fee and charge subject to the GST. If the Leader of the House can say that the Government will do that, the Opposition will say its motion has been successful and there has been an apparent advance in the Government's policy.

I comment on the inclusion in that list of agencies of the Water Corporation. I thought water services were largely exempt from the GST, so the Treasurer's claim that the GST component will be explicitly shown on Water Corporation bills is confusing to the public. The Minister for Water Resources may be able to enlighten us on those Water Corporation fees and charges which are likely to be subject to the GST and are likely to appear on the average consumer's bill. I am well aware that all sorts of specialist charges made by the Water Corporation are likely to be subject to the GST, but the average consumer is not likely to see them often, even though plumbers and others may see them fairly frequently.

Dr Hames: As you correctly said, there are no GST specific charges on water rates and services. I noted that the Treasurer had said that and I presumed he was referring to some smaller, specific things that might occur. We will have a saving on GST through the Water Corporation, but those figures are yet to be quantified.

Mr RIPPER: I argued the case on radio for a truth in GST pricing policy, and had the experience of Senator Ian Campbell ringing the radio station. He styles himself as the manager of government business in the Senate, and seems to have a role in Western Australia of advancing the Howard Government's cause on the GST. He took issue with my call for a truth in GST pricing policy and was opposed to that policy being adopted. He said it would add to compliance costs and would be too difficult for small business. It was difficult to understand his argument because, at the same time as he said that, he argued that it was fairly easy to calculate the GST and people could do that calculation in their heads as they paid for the good or service. To my mind, if it was fairly easy to calculate the goods and services tax component of the price, the compliance costs would not be that high and it would be very helpful for consumers to know what tax they were paying

when they purchased particular goods or services. The truth of the matter is the goods and services tax will be much more pervasive than people currently expect. Generally people in the community do not understand how ubiquitous this new tax will be. They will find out gradually as they use services. When they get a haircut, they will find they pay the GST. When they call in a plumber, they will find they pay the GST. When they are required by Western Power to trim their trees which have grown into the powerlines, they will find they pay the GST.

There has been much focus on the prices of goods and whether they will go up or down as a result of the abolition of the wholesale sales tax and its replacement with the GST. However, people have not focused on the services which are currently not subject to wholesale sales tax but which will be subject to the new tax. People will be shocked at how pervasive and ubiquitous this new tax is. I will leave that point aside but it is only fair, when a Government is adopting a new tax system and spending a lot of money on compliance for that adoption, that a benefit which comes from that is greater openness, greater transparency and greater accountability. If we are spending all this money on a new tax system, we should at least get those things. If the system is so good, people should know how much GST they are paying.

The State Government can take a lead here. It can set an example for the rest of the community. It is a pity that the GST system, as legislated by the Commonwealth Parliament, did not include a requirement for the GST component to be shown on all receipts, but at least that can be done on a voluntary basis. Let the State Government set an example and show a lead. Let the State Government show the GST explicitly on every one of its invoices and receipts where that state government fee or charge is subject to the goods and services tax. The Premier has gone some way to meeting the Opposition's argument - after his initial arrogant and wrong-headed rejection of our view - by saying that the requirement to show GST will apply to Western Power, AlintaGas and the Water Corporation. If it can be done for those bills, why can it not be done for each and every one of the other 699? The Leader of the House says it might not be practical. I cannot see that there will be major difficulties. If the Leader of the House thinks there will be major difficulties and huge compliance problems with particular matters, he should outline those problems to the House. It seems to be an almost unanswerable argument. In a democracy people are entitled to know how much tax they are paying when they pay it. It should be a feature of the modern governmental and taxation world. It is not very difficult to do.

Mr Barnett: Would you envisage it being shown on bus tickets?

Mr RIPPER: The price is printed on bus tickets; why would Transperth not be able to print the GST component?

Mr Barnett: The best you can probably do is quote a certain percentage of the ticket price as GST. When you have thousands of tickets being purchased on a daily basis, it is impossible to be accurate on the GST component of an individual ticket from one section of a transport route to another. You would have to work on an average GST across prices. In some cases you can be precise and in other cases you will be effectively applying the GST across a series of individual purchases of a broad service. It is just practicality. That will be the reality. You can be specific on your individual electricity account but less specific on the GST component of an individual bus fare.

Mr RIPPER: Surely it will be possible to identify how much of an individual bus fare is being spent on the GST.

Mr Barnett: If you were doing that, you would be using an imputed figure which might be as valid as you could get.

Dr Hames: If you said it includes 10 per cent GST, surely people can work out what 10 per cent of the bill is.

Mr RIPPER: Many people could and that was Ian Campbell's argument but he went on to say that that presented a compliance problem. However, if Transperth is printing the price on a ticket, I see no reason it could not then print the standard GST component which applies to that price.

Mr Barnett: Take public bus fares; the advice I have is that the net effect of the GST on public transport fares will be 6.2 per cent. What would you advocate we print on the ticket? Here is a \$3 bus ticket, out of that 6 per cent, roughly 18¢, is GST. I do not think that is very realistic. You could show "The GST applies to this ticket" and put in brackets "The net effect is an increase in price of 6.2 per cent", but you will not necessarily be any more truthful if you go down to that micro level of detail.

Mr RIPPER: If Transperth prints the price on the ticket and every time it sells a \$3 ticket it prints \$3 on it and it knows that the same 6.2 per cent applies to that \$3 ticket every time one is sold, the calculation could be done once at head office and automatically printed on every \$3 ticket and a different figure could be printed on every \$1.80 or \$1.20 ticket.

Mr Barnett: We could do it. Is that what you are advocating? It will not be 10 per cent.

Mr RIPPER: I am advocating that the GST component of a price paid by a consumer be made available to that consumer on the bill, the invoice or the receipt whenever a consumer purchases that service. If the receipt for a bus ticket is the ticket itself and it has the price on it and we are already printing the price, I see no particular difficulty in printing the GST component on that ticket.

Dr Hames: At least it is easier to do under the GST. Can you imagine a retailer of electrical goods trying to work out the wholesale sales tax - which varies so enormously - on all the goods he sells? It would be a nightmare.

Mr RIPPER: There are some compliance problems which the Government might need to come to grips with. I notice that the New South Wales Minister for Transport has said that his department might need to employ additional staff to inspect tickets on the public transport system if passengers require the receipt which is mandatory under the new GST laws. That is an interesting compliance problem. Passengers on Transperth could start demanding receipts and it is a mandatory requirement under the new GST laws for them to be given those receipts. The State Government should look at the

requirements because it might find that it has to issue not only bus tickets but also receipts if passengers stand up for their rights under the GST laws. I am making that remark on the basis of a comment reported in *The Australian Financial Review*. That might not be precisely the case but *The Australian Financial Review* is normally a reliable journal when it comes to these complicated financial matters.

I hope the Government now understands the full scope of the motion. We are essentially asking the Government to do with all its fees and charges what the Premier has promised it will do with Western Power and AlintaGas. I hope that the Government is prepared to be more open about this matter than it was when the Premier first responded to the Opposition's suggestion that we follow Victoria's lead. The Premier has an opportunity to show that his Government is prepared to set a good example for the private sector and to take a lead. The Premier has an opportunity to say to the people of Western Australia, "You are entitled to know how much tax you will pay."

It might be politically pragmatic for the State Government to adopt this policy. Far be it for me, as the Deputy Leader of the Opposition, to offer too much sound advice to the Government, but I imagine that it wants the Federal Government to take the blame for the price increases that will flow from the GST. That is why the Premier has indicated that he will identify the GST in gas and electricity bills - he will want the price increases blamed on John Howard not the State Government. The Leader of the House might well find it politically pragmatic to ensure that every charge he is responsible for includes a GST component and that it is explicitly identified.

The countervailing accountability is the natural temptation for a State Government to attempt to profiteer from the GST.

Mr Barnett: That is an appalling statement.

Mr RIPPER: I am simply saying that the temptation exists.

Mr Barnett: There is no temptation. It is appalling to suggest that a State Government, public service department or agency would somehow profiteer.

Mr RIPPER: Given the State Government's budget crisis, it would face a natural temptation to increase prices by the maximum amount allowed under the GST legislation.

Mr Barnett: Only a Labor politician would think of fiddling the books!

Mr RIPPER: We have seen plenty of fiddling and accounting manoeuvres disguising the true extent of this Government's difficulties. We know what is possible. Explicitly identifying the GST component will apply an accountability measure to the Federal and State Governments. If the GST component is identified, everyone knows what the tax is supposed to be. If there is any dispute about that component, the figure will be identified, so we will all know what we are arguing about. It is a good measure to ensure openness and accountability.

I believe that the Government is about to adopt the Labor Party's policy on this matter. The Premier has made a move in that direction and the Leader of the House seems to be indicating a preparedness to take further similar moves. Why not go the whole hog and support the motion before the House? Why not tell Western Australians that every time they pay the GST on a state fee or charge, that component will be explicitly identified so that they know what tax they are paying?

MR BROWN (Bassendean) [6.15 pm]: I support the motion. I refer to the comments made by the Deputy Leader of the Opposition and the subsequent interjections from the Leader of the House concerning the State's making a profit from the GST. I am interested in the comment that the State would not seek to enhance its revenue as a consequence of the GST.

Mr Barnett: As a consequence of the administration of the GST.

Mr BROWN: But the State might seek to enhance its own revenue in other ways.

Mr Barnett: Hopefully it will be a beneficiary in the sense of tax income flowing to the States, but not in terms of the GST. We will apply the GST to the letter.

Mr BROWN: But the State Government hopes to increase state taxes and charges to cover more than the GST and make a profit.

Mr Barnett: No. Although some agencies will collect the tax, in the process they will incur considerable costs. The administration and compliance costs for the Education Department will be significant - \$4m to \$5m - and education is GST free.

Mr BROWN: The State Government has already made a decision to increase its tax impost by virtue of the GST being imposed by the Federal Parliament.

Mr Barnett: The Deputy Leader of the Opposition was suggesting profiteering. In other words, the GST might have a net impact of 8 per cent, but the State Government will make it 8.5 per cent. That is the sort of thing you got up to; we do not do that.

Mr BROWN: The State Government has already decided to utilise the GST-inflated prices for state taxation purposes.

Mr Barnett: Of course it flows through.

Mr BROWN: This Government has already decided to apply stamp duty on the GST-inclusive price.

Mr Barnett: Yes.

Mr BROWN: When the Deputy Leader of the Opposition referred to the Government's making a profit on the GST, he was right. If a good or service now costs \$100 and attracts a stamp duty, when the GST comes in it will cost \$106, and the State Government will impose stamp duty on \$106.

Mr Barnett: That is because the stamp duty applies to the transaction price, and the transaction price will include a component of GST. In that sense, it could result in a net gain. In other areas, such as administration of education, there will be net losses. The GST will involve swings and roundabouts, but that is not profiteering.

Mr BROWN: I will quote the Chamber of Commerce and Industry's publication "A climate for growth", under the heading "A program for fiscal management and economic growth in WA". The CCI makes the following criticisms -

WA Applies Stamp Duty to GST

The WA Government has recently introduced legislation into Parliament which will apply stamp duty to the GST inclusive price of transactions.

The Chamber of Commerce and Industry is opposed in principle to such double taxation. The government should not apply taxes on top of taxes, and Stamp Duty should not be applied on GST-inclusive prices.

The proposal to charge stamp duty on the value of a transaction including the value of the goods and services tax is inefficient and distortionary in a number of ways.

Exporters, for instance, are expected to benefit significantly from tax reform as exports will generally be GST-free. However, applying the stamp duty to the GST inclusive price will boost the cost to the business involved in exporting and there will be no means of obtaining an input tax credit for the higher cost of stamp duty.

Under the proposed legislation, an exporter which purchases a building for \$10 million will be required to pay almost \$50,000 extra on the transaction because the stamp duty is levied on the GST inclusive price. Home buyers will also be affected, with additional charges adding \$481 to the cost of a \$130,000 home.

Mr Barnett: But, if you take the price of a house, do you have an imbedded GST price post 1 July? There will not be one in the market place. That is the practicality. I know what the member is saying. However, we must deal practically with the market place and the prices out there post 1 July.

Mr BROWN: I will continue the quote -

Such sleight of hand cannot be justified. Apart from breaching the principle of not levying taxes on top of other taxes, the legislation further distorts the tax base which occurs through the current exemptions and concessions.

For instance, while new home buyers will be taxed more heavily, buyers of existing properties will be largely unaffected. This creates a distortion in the home buyer market favouring the purchase of existing dwellings in preference to newly constructed dwellings.

The Chamber of Commerce and Industry, a supporter of the goods and services tax, is saying that, notwithstanding that it supports the tax, the way it is being applied in Western Australia, with a stamp duty on the GST inclusive prices, is profit taking, and the Government is taking the opportunity to collect more by way of stamp duty as a result of the imposition of the goods and services tax.

Mr Barnett: If one has, say, other goods, and the net effect of removing the wholesale sales tax and imposing a GST is to reduce the final price - there will be many of those - and they get caught up in a transaction subject to stamp duty, if I have followed the member's argument, for the State to be neutral it would have to increase the rate of stamp duty on a case-by-case basis. That is the element of swings and roundabouts and practicality. I do not think the Chamber of Commerce and Industry is saying that we should increase the rate when the net effect on price is negative. There is an opposite side to that argument. I know the chamber's argument and I understand it. In principle, it stands up; in practice, other issues are involved.

Mr Ripper: You know the problem.

Mr Barnett: I know the problem.

Mr Ripper: The problem is that you will be getting more revenue. You will be getting more on the swings than you are losing on the roundabouts.

Mr Barnett: On the application of stamp duty, that would be true.

Mr Ripper: \$30m.

Mr Barnett: However, in the administration of other areas, such as education and health, it will be very much the other way.

Mr BROWN: When the Government puts up its financial statements, one always has a degree of suspicion about their accuracy and whether the Government is telling the truth in its budget statements and taxation statements. I will give an example of how, according to the Chamber of Commerce and Industry, the Government misled the Parliament and the people in its taxing policies. I refer to comments made in the publication to which I referred earlier concerning stamp duty on workers compensation premiums. I will quote an extract from the publication. Under the heading "Stamp Duty on Workers' Compensation Premiums", the chamber said -

CCI's 1998-99 Pre-Budget Submission outlined the problems associated with the compulsory workers' compensation system operating in Western Australia. That submission argued that the system was inequitable because it discriminates between small and large employers.

Further, it is unfair and inherently inefficient to levy a tax on a compulsory premium which effectively results in double taxation.

Rather than abolishing the stamp duty rate applicable to workers' compensation insurance premiums, the State Government elected to increase the rate from 3 per cent to 5 per cent in the 1998-99 Budget.

This decision was based on information supplied to the Government which was incorrect.

The 1998-99 State Budget papers state that *"The concessional rate of stamp duty on workers' compensation insurance policies will increase by a similar proportion, from the current 3 per cent to 5 per cent of the premium. . . . These increases will bring stamp duty rates on insurance in Western Australia more in line with the other States"*.

That statement was accompanied by a Table which showed that South Australia, Tasmania, and the ACT had rates of 8 per cent, 8 per cent and 10 per cent respectively. These figures quoted in the 1998-99 State Budget papers are wrong.

CCI checked with each of the state Treasuries and confirmed that Queensland is the only state to apply stamp duty on workers' compensation premiums. Thus, rather than bringing Western Australia into line with the other states, the Government has moved to place WA out of step with the other states and make businesses operating in this state less competitive through increasing labour on-costs.

I raise that in the context that this Government has all the resources of Treasury available to it, not a 0.4 full-time equivalent research officer, as members have. This Government makes decisions on tax issues in the sensitive area of labour costs and in the highly sensitive area of imposing tax on workers compensation premiums, and it does that on a basis which is wrong. The budget papers are wrong, yet we are told in this Parliament that we should have faith in what the Government produces. Although the Government has available all the massive resources in Treasury and in all the other places, the figures are wrong. One wonders about competency factors, unless the Chamber of Commerce and Industry is misleading the Parliament, which I doubt. When the Government says that it has examined this tax and that it has ramifications which it has examined, serious questions of competency arise. If the Government cannot ascertain what another State charges in taxes - that is not a taxing requirement - one has a real worry when it is dealing with something as complicated as a goods and services tax that applies to every level of transaction.

I will deal with why we need some truth in GST pricing policy, because we are yet to see the real implications of the GST. After its introduction, a number of businesses will no longer exist. People will go out of business in the six to 12 months following the introduction of the GST. There will be less competition in some markets and prices will increase. Already, a number of industry sectors have drawn to the attention of the Howard Government their concerns about how their sectors will be affected by the introduction of the goods and services tax, and how small businesses in those sectors will be pushed to the wall because of the way the Government intends to apply it.

I will give one of myriad examples. However, in this example the situation is articulated well. I refer to the car rental industry. It is not an insignificant industry, and it is important for the tourism industry, which the State wishes to encourage and to promote because of the investment and job opportunities it creates. The tourism industry relies on the self-drive market, whether it be people who own vehicles or interstate or international tourists who hire vehicles. I will give an indication of what will happen to the car rental industry with the introduction of the goods and services tax. I have a letter from Delta Car Rentals, which has finely examined this question. The company states -

It would seem that our industry is going to be subject to an unbearable impost because of the GST. The transitional measures on motor vehicles will cripple our industry.

We will carry vehicles from pre GST to post GST (this is a fact of life). These vehicles will have been purchased with Wholesale Sales Tax. When they are sold post GST we are liable to pay GST for which we will receive no input credit. New Vehicles will come down in price post GST as well as used vehicles so these vehicles will not realize their pre GST resale value.

These extraordinary costs we believe will be in the region of 18% of the purchase price of the vehicles. It is our estimation this would cost the franchise of Delta Car Rentals approximately \$2,000,000. This does not include our Parent Company, which is facing losses in the order of \$5,000,000. Our franchise network is made up predominately of small business people like myself who could not survive such an impost.

If you factor in these cost increases on top of the GST we would need to add 28% to our prices. As I am sure you will appreciate a price rise of that magnitude would lead to a massive drop off in Car Rental usage. Our industry has demonstrated price inelasticity in the past and, without the current competitiveness in the industry, the consumer has enjoyed lower prices for some years. All this despite rising costs. The main cost in a Car Rental business is the depreciation in the value of our stock, i.e.: Motor vehicles, from new to when they are sold, approximately 12 months later.

This competitiveness has led to companies seeking market differentiation by providing newer vehicles and higher

standards or service. All of which benefits the local and overseas consumers, not only in terms of enjoying a higher standard of vehicle but also in terms of safety and convenience. The taxi industry required legislation and regulation to reduce the age of vehicles. Car Rental has achieved this through market forces. This has meant that the turnaround times for vehicles are now shorter than 12 months. This is not something that our industry can now change and even if we could, not in the next six months.

As an industry we purchase approximately 40,000 vehicles per annum, the effects of these transitional measures will be significant on the motor vehicle industry as a whole and also the ancillary industries supported by the Car Rental industry. The buyer's strike likely from the GST will be further exacerbated if the Car Rental industry suffers the inevitable closures and the deferment of purchasing of new vehicles until the transitional period is past. This indeed would not augur well for the used car market after July 2002

The letter continues. What does that mean for this State? The implication of the goods and services tax is that we will see a number of businesses go to the wall and less competition in some markets. Small businesses which are unable to ride out these problems and do not have the financial capacity to be able to absorb these costs or carry the costs, will be under a lot of stress. This point was also made in a statement by the Motor Trade Association. In a release under the heading of "Troubles ahead for vehicle hire companies under the new tax system" the association had this to say -

The problems begin for hire companies with the disposal of their current fleet of vehicles. They will have already paid the 22% wholesale sales tax on these vehicles and will pay an additional 10% GST when they are sold after 1st July 2000. There will be no input credit available to hire car companies because the vehicles have been deemed to be "goods for hire" rather than "stock in trade" under the GST legislation. This clearly amounts to double taxation for these companies, which places them at a serious disadvantage with other sectors in the industry
...

The second area of concern stems from the "phasing in" provisions for input credits for the purchase of fleet vehicles over a two-year period post 1 July 2000. There will be no input credits available for the first year with 50% input credits in 2001 and the balance in 2002, yet the full 10% GST will have to be paid on all new vehicles purchased after this period. The negative cash flow implications for companies under this system are fully apparent. It is a matter of concern that it applies to all fleet owners, not just the hire car industry.

The plight of the hire car operators will have serious ramifications for other sectors of the motor industry to include manufacturers, dealerships, finance companies, to name the obvious ones.

Later it had this to say -

The Government approach so far has been to advise hire car operators to put up their prices to offset their additional costs. This is highly impractical given the extreme price sensitivity in the market and is totally contrary to the repetitious claims by the Government that the GST will result in savings for consumers.

Whether we look at what is being said by these operators or small operators who can articulate this point or whether we look at what is said by the Motor Trade Association, we can see that this industry, and indeed many others, is facing very significant price rises, some of which will flow through from government costs. The Government has a range of staff for whom it purchases uniforms, such as police and prison officers. We have encouraged the Government to have those uniforms made in Western Australia. However, the Government has not always seen fit to follow that policy and some of those uniforms have been purchased off shore.

Recently a clothing importer asked us to calculate the cost of the GST on clothing imports while retaining for that importer the same margin of profit as it currently enjoys. We made that calculation. As you would know, Mr Acting Speaker (Mr Sweetman), the GST is applied to imports. If a product is imported at \$100, two charges are applied, one of which is \$25 and the other \$5, which means a price of \$130. If the GST is applied to that price, it means another \$13 is added, so the final price is \$143. If one goes through the entire calculation maintaining the same margin that the importer is currently receiving, prices must be increased by more than 10 per cent.

That calculation was put to the Australian Competition and Consumer Commission and it was asked to say whether the calculation was wrong. The ACCC, without going into tremendous detail, said that it appeared from what was conveyed to it that the calculation was correct, and that in order for the importer to maintain its margin, it would have to increase the price by more than 10 per cent. What was the advice of the ACCC? It suggested that the importer put up its prices by only 10 per cent when the GST comes in and then increase prices again a bit later. The ACCC's advice was that if the importer put up prices by more than 10 per cent, the ACCC would be required to investigate and the investigation would cost the importer money. The ACCC suggested that, rather than having it snooping around the business, the importer put up its prices by 10 per cent, which would keep it off the importer's back, and then three months or six months later increase its prices again, in the meantime taking a loss.

Mr Barnett: Is that advice in writing?

Mr BROWN: Of course it is not in writing. The Leader of the House knows the ACCC would never put that advice in writing.

Mr Barnett: I doubt the veracity of what you are saying.

Mr BROWN: The Leader of the House might doubt it. I can tell him that is what was said.

Mr Barnett: You would accept that under any scenario the GST is not constructed in a way to maintain profit margins for businesses; it is a turnover, retail tax. Yours is a fallacious argument.

Mr BROWN: I understand what the GST is. I understand the calculations. All I am saying is that when looking at the true pricing, people should look at what it means and the way prices will move, because there is a considerable number of ways in which the GST will affect prices.

In some parts of the State the Government has made money available for small business at least to get some training in GST accounting procedures. You would be aware, Mr Acting Speaker, that in parts of Bunbury, Mitchell and other similar seats in the south west, through the Department of Training, small businesses with 10 or fewer employees have been offered a \$400 voucher for such training. This so-called pilot scheme has not been applied to other areas of the State. A number of small businesses in other areas are already starting to query whether such a scheme should be made available to them. Such a scheme is needed now. It is no use introducing it in six months or in a year, because the businesses will have had to pay out their own money to get the training necessary for the implementation of the goods and services tax.

The goods and services tax has many more implications for government price structures. Government has an obligation to ensure that taxpayers, users of government services, etc, know the precise cost of the tax they will be required to pay after 1 July. I support the resolution moved by the Deputy Leader of the Opposition.

MR BARNETT (Cottesloe - Leader of the House) [6.41 pm]: A general consumption tax such as the goods and services tax is obvious to the community because of its wide application. It is a new tax and, for the majority of goods and services, it will result in a net increase in price as will be observed on 1 July. In that sense, it is an obvious tax that is bound to be unpopular, at least during the period of introduction and transition. The Western Australian Government and the Howard Government recognise that. It is a courageous move to reform the Australian tax system and deal with the obvious criticism and negative public reaction that will occur during the transitional phase.

I take this opportunity to again remind the House that the GST is one part of an overall tax reform package which is long overdue, necessary and inevitable for Australia. The broad dimension of the tax package is a shift away from direct taxation of income and personal effort to a taxation system based more on indirect taxes on consumption. That is desirable because it rewards effort and provides an incentive to work and expand. In that sense, the GST and the shift from direct to indirect taxation will have a net positive effect on this country's economy. It will apply on consumption and be deductible from a business perspective. It will not apply to exports. Australia is a great exporting nation. Agricultural and mining exports are the base of our economy. They dominate, particularly in Western Australia, accounting for over 90 per cent of all exports in this State. Those exports will go into world markets GST free. They will also have the benefit of the removal of the indirect and expensive wholesale sales taxes, diesel excises and the like that previously applied. The net effect will be an improvement in the price competitiveness of Australia's export activity. The first time I ever spoke on the GST in a public forum was when option C was being promoted by then Treasurer Keating. At that stage, there were 24 nations in the Organisation for Economic Cooperation and Development. There is a couple more now. Of those 24 OECD nations, 22 had a broad-based consumption, retail or GST-type tax, which advantages the export sector compared with other sectors. Australia, which is one of the most export-dependent economies, was the one - along with a minor state somewhere else - that did not have a GST system. Therefore, our exporters were penalised. It is naive to think seriously that an export-dependent nation like Australia can survive in an intensely competitive world market with a tax system that is fundamentally different from the rest of the world; that is, to think it can swim against the tide and survive in the long term. To maintain international competitiveness in our trade and export sector, we simply have no option but to follow the rest of the world and introduce a broad-based consumption tax.

The new tax system will also make tax evasion far more difficult. It will do much to get rid of the cash economy. In that sense, the system will be fairer because the burden of taxation will be spread more evenly across all members of the community, both private individuals and the corporate sector.

Mr Brown: How does the Leader of the House explain that?

Mr BARNETT: I will come back to that. The member for Bassendean spoke for over an hour and I have only a few minutes left. The tax will apply to all sectors of consumption. The member for Bassendean, in his previous incarnations, represented large sectors of manufacturing industry, which I respect. How can we justify the current wholesale sales tax system which is effectively a tax on goods and which does not tax the services sector, the most rapidly growing part of our economy? We currently have an indirect system which taxes manufactured goods and exempts services. It is little wonder that politician after politician, industry leader after industry leader has bemoaned the fact that our manufacturing industry is languishing. Why would it not? We are taxing the hell out of it and exempting the services sector. That is the effect of the wholesale sales tax, but the GST applies across all sectors on an even basis. It removes high rates of wholesale sales taxes and replaces them with a modest, across-the-board GST of 10 per cent.

Under the negotiated arrangements, the tax will provide the States with a long-term source of growth-revenue tax. It is also far more explicit. It will be upfront and visible, whereas the wholesale sales tax is hidden and embedded. All those things mean the tax package is necessary and desirable for Australia. In assessing any tax, one should look at the efficiency of the tax system. In other words, will it distort economic activity, will it favour one sector against the other, will it lead to biases in production? The GST is efficient and neutral because it will apply across the board. Some exemptions will apply following the deal with the Australian Democrats. We will see problems with the difference between fresh and manufactured food. That is a pity as it will unnecessarily complicate the system. However, that was the deal that was done. Tax systems should be equitable; they should apply to all on an equal basis. This system will be far fairer than the system

we have now. The system should be transparent, clear and obvious to all. That is what this motion is about. The term used was "truth in GST pricing", which is a nice slogan. The Government's approach is that the GST component of prices of government goods and services should be known to the community. We have no motivation to try to conceal that. Why would we want to hide it? There is no reason to hide it. It comes down to a matter of practicality. The Opposition's motion literally wants a GST component shown on every single price, ticket or parking entry. It is possible in a technical sense, although at great expense because of the modification of equipment and compliance. However, where do we draw the line? To say it is technically possible does not mean it is desirable. One of the components of transparency is that one can see the impact of the goods and services tax, but it must also be simple, easily understood, comprehended by the community and not confusing. It is not in anyone's interest to confuse the public unnecessarily about the introduction of the goods and services tax. Electricity and gas are significant areas of household expenditure. There is a formal billing system, the account varies according to consumption and, because we can accurately estimate the GST component, it will be clearly shown on the accounts. For example, the electricity bill will show that the cost is \$180, of which the GST component is X dollars. It will be the same for the gas bill. In other major areas of pricing I will encourage, where it is practicable, a single price so that the consumer knows what is the total cost of the article or service. That must be clear, transparent and simply understood. A bill is a bill and they need to know how much to pay and when to pay. Within that documentation, if practicable, it should also indicate the GST component. That is fair and desirable and it is in the Government's interests to do that.

When we get down to very small items which involve thousands and thousands of transactions, such as bus tickets, I think it becomes impractical and has a potential to cause great confusion, because the component of GST will vary dramatically according to the offsets, particularly with the abolition of wholesale sales tax and the effect on the fuel pricing regime.

Mr Ripper: Minister -

Mr BARNETT: I know what the member is going to say. He has argued that before. The member is going to make the point about the 6.2 per cent increase in bus fares. I do not know what the Minister for Transport intends, but I will give my view. On bus fares I think there is a responsibility for transport agencies to make it very clear to the travelling public what will be the impact of the GST. I think it will be made clear; maybe there could be a form of advertising, perhaps even signs on buses explaining the GST component. That is desirable and accountable and I cannot see any reason to resist that. However, when we get down to the practicalities of including the GST component on individual tickets, that would only cause confusion. It would provide the travelling public with information in which they will initially be interested, but in which in the long term they will lose interest. Given that consumers are not businesses, they do not have the ability to deduct GST from such transactions. It is not a deduction for them as it could be for a business. In a business, where the GST falls on the value-added component at each stage of the production chain, the GST must be explicit because it is paid when the intermediate good is bought. When it is sold one claws back the GST that has been paid. Clearly, in business-to-business transactions, the GST by necessity will be very explicit and will need to be recorded. We are talking only about the final price to the consumer at the end of the production chain. On large items the component should be made public. On small items it is impractical.

Another couple of issues arose during the debate. An example was given of a tax on a tax, where stamp duty applies to the full price of a product which may already have attracted GST. There could be an argument about that. The Opposition mounted an argument that the stamp duty represented a tax on a tax. Stamp duty is a tax on a transaction. With the GST it is important that the consumer see the final price. The retailers probably will not agree, but I hope that the retailers of major components do show, as they are required by law, the final price on the ticket. I am not quite sure of the intricacies of the law, but I hope that in the interest of accountability many of them will show the GST component. They should not just show a price and then hit people with a 10 per cent GST when they reach the cash register. Retailers should show one full price, and if they can identify the GST component I encourage them to do so, because that is a good thing to do. For example, a consumer should know that an \$800 suit has an \$80 GST component. It will be up to retailers to do that and they will have to examine the cost benefit of showing it, but I think it is desirable. For small items it is probably not worth it, but for larger items I think the average consumer would be interested.

An example of a tax on a tax that was pointed out to me was that on vehicles. Currently vehicles attract a wholesale sales tax. Our car dealer is not here, so he cannot tell me what is the wholesale sales tax.

Mr Brown: Twenty-two per cent.

Mr BARNETT: I thank the member for Bassendean. The net effect of removing the wholesale sales tax on vehicles and imposing a GST will be a fall in the price of new vehicles. That has been acknowledged. At the moment, when someone sells a vehicle stamp duty is attached. At the moment the stamp duty applies to the final transaction price, which includes the embedded wholesale sales tax. If the Opposition's argument is followed through that we should not have a tax on a tax, the Opposition also should say that we should not tax the present wholesale sales tax component on vehicles. Under the GST the price of the vehicle will fall and, therefore, the stamp duty component also will fall. The existing stamp duty on the 22 per cent wholesale sales tax will be replaced by a stamp duty on a 10 per cent GST component. In that case, the argument is turned on its head. One can argue that in the case of a new house there is a net loss, but with a vehicle transaction I would argue that it goes the other way. It indicates swings and roundabouts and an impurity in the system. I think that stamp duty properly applies to the full transaction price, which in this case involves either a wholesale sales tax or a GST. I recognise that we could have an argument about that. There are probably lots of things in this taxation package and further issues that will be subject to taxation rulings.

Mr Brown: Do you accept that a number of small businesses will go bust?

Mr BARNETT: I recognise that the transaction costs will be high. They will probably be higher than originally estimated and I recognise that there will be a learning curve for business. They will have to adjust equipment and train staff. That will initially be difficult for many small businesses. However, once the system has settled down - I think it will settle down sooner than the member thinks and hopes, because there is a strong financial incentive implicit in the system to work it and work it well - people will find that the cash flow of small businesses will be improved. They will be paying out \$X in GST as they buy components and intermediary goods and they will be charging \$X-plus as they sell it on. In that sense, while there may be an introduction impediment, once the system is smooth and all the wholesale sales tax components have flowed out of it, and we have only a pure GST system, small business will find it easier. They will find their cash flow and thus their bank position will improve. They will also derive other benefits from the whole tax package. I do not deny for a moment that the transition from the existing poor tax structure to one that is a vast improvement - not quite the improvement I had hoped it would be - will be difficult. There will be heartache, anomalies and arguments, but I think people will find that after two or three months it will settle down. Once people have gone through the first quarterly cycle with the collection and payment of GST they will find it a very acceptable system. At the end of the day we should not lose sight of the fact that it is a fair system which affects all sectors on an equal basis. It will help our exports. It also means that overseas visitors travelling within Australia will not get a tax advantage over residents as they will have to pay GST along with the rest of us as they spend their money in this country.

Mr Brown: It will be disastrous for the car rental industry.

Mr BARNETT: The car rental industry is an example that the member gave where quite severe adjustment problems could occur. If rental firms have purchased cars under a wholesale sales tax system, the price of that car when it is sold will be lower. They will buy cheaper new cars in the future. That industry will gain significantly in the longer term from being able to purchase cheaper vehicles and in cash flow benefits. These are high cash flow businesses and they will gain quite significantly through the GST.

Mr Brown: The problem at the moment is that they cannot get a tax credit for their purchases. They get 50 per cent after 12 months and 100 per cent after two years. They are going to have to carry all those costs.

Mr BARNETT: I recognise that they potentially face a significant adjustment cost; I do not have any hesitation in saying that. The compliance and adjustment costs will be high and that will cause problems for many businesses, but the system will settle down after three months. I think we will then find strong support from within business for the overall benefits of the package and the way in which it operates.

The Government supports full accountability, and the Premier has already listed details of which government charges and services will attract GST and which will not. We are progressively showing the net effect of the GST package on key government taxes and charges and that process will continue and we will make the process as explicit as possible.

I want to talk about the references made by the Deputy Leader of the Opposition to electricity. He said that the Federal Treasurer, Mr Costello, indicated that the price of electricity would rise by 6.2 per cent on a national basis. I have indicated that in Western Australia the rate will be 9.3 per cent, which is close to what it will be around the country. The major reason for that change was that the Federal Treasurer's original forecast was made before the deal with the Australian Democrats. That deal reintroduced an excise on diesel used in power generation in regional areas. Following that deal, the net effect of the GST package will be to increase the GST's effect on electricity. That has been true across the nation. Most, although not all, of the difference therefore is accounted for by a policy change.

The Government is not against the principle of this motion. We do not support it because we cannot support it to the letter. We will make taxes and charges as explicit as possible and we will continue to provide as much information as is practically possible to the consumers of government goods and services. There is no incentive for us to hide information. As I have said, with very small, huge-volume transactions it is impractical to include the GST component and it may simply confuse consumers. As the Government cannot support this motion to the letter, we will vote against it.

Question put and a division taken with the following result -

Ayes (16)

Ms Anwyl
Mr Brown
Mr Carpenter
Dr Edwards

Mr Graham
Mr Grill
Mr Kobelke
Ms MacTiernan

Mr Marlborough
Mr McGowan
Ms McHale
Mr Riebeling

Mr Ripper
Mrs Roberts
Mr Thomas
Mr Cunningham (*Teller*)

Noes (25)

Mr Ainsworth
Mr Baker
Mr Barnett
Mr Bloffwitch
Dr Constable
Mrs Edwards
Dr Hames

Mrs Hodson-Thomas
Mr House
Mr Johnson
Mr Kierath
Mr Marshall
Mr Masters

Mr McNee
Mr Minson
Mr Nicholls
Mr Omodei
Mr Osborne
Mrs Parker

Mr Prince
Mr Shave
Mr Trenorden
Dr Turnbull
Mr Wiese
Mr Tubby (*Teller*)

Pairs

Ms Warnock
Dr Gallop
Mr McGinty

Mr Court
Mr Cowan
Mr Board

Mr Bridge

Mr Pandal

Question thus negatived.

House adjourned at 7.04 pm

QUESTIONS WITHOUT NOTICE

POLITICAL PARTIES, UNITY IN GOVERNING

648. Dr GALLOP to the Premier:

I refer to the Premier's claim yesterday that political parties which do not speak with one voice cannot be expected to govern.

- (1) Was the Minister for Resources Development speaking for the Government in January when he criticised the privatisation of Westrail?
- (2) Was the Deputy Premier speaking for the Government when he said, also in January, that the Coalition had no vision for health, no vision for education, and no vision for justice?
- (3) Was the Deputy Premier speaking for the Government when he said Liberals had become reactionary, most notably in the prostitution, forest and abortion debates?
- (4) Was the Minister for Fair Trading speaking for the Government when he told *The Australian Financial Review* last month that the deputy Liberal leader was becoming frustrated by his unrealised leadership ambitions?
- (5) Are these examples of a Government speaking with one voice?

Mr COURT replied:

- (1)-(5) For seven years this Government has worked in a very united way on all issues. For seven years we have made many hard decisions, including the Westrail and pipeline sales decisions. They have all been made with the full support of the members of the party and we are proud of it. With the pressures of Government it is unique that we have been able to deliver that unity in government and we will continue to do so.

STREET PROSTITUTION

649. Mr BLOFFWITCH to the Premier:

- (1) Is the Premier concerned that Perth residents have had to resort to barricading their streets in an attempt to control street prostitution?
- (2) What action has the Government taken?

Mr COURT replied:

- (1)-(2) I am very concerned that members of the Labor Party gutted the legislation introduced to resolve the question of street prostitution. Last year I received a number of delegations from different groups from the area concerned about street prostitution. These groups include people who live there and run businesses there. I discussed the matter with the Minister for Police and he told me that the advice he had from the police was that the police needed certain powers to make it possible for them to control street prostitution. We brought that legislation into this Parliament last year. The legislation passed this Assembly, where it was supported by the Opposition. It then went to the Legislative Council and the Labor Party gutted the legislation. Now a Labor Party candidate is organising barricades for the streets because the police do not have the appropriate powers to deal with the problem because the Labor Party gutted the legislation when it was brought into the Parliament. I will say it slowly: The Labor Party is soft on crime.

Dr Gallop: You create crime. The statistics have dramatically risen since you have been in government.

Mr COURT: I will say it again: The Labor Party is soft on crime. I will tell the House why. It is ironic that in a week when the Labor Party made a decision to put law and order on the agenda, it cannot speak with a united voice on mandatory sentencing for home burglaries or on prostitution legislation.

Dr Gallop: Premier, are you aware that Western Australia is the crime capital of Australia?

Mr Kobelke: He is proud of it.

Dr Gallop: What a joke!

Mr COURT: The question that the Labor Party must answer is why it cannot present a united position on those two -

Dr Gallop: We do.

Mr COURT: A united position? The Legislative Assembly said it was okay.

Mrs Roberts: We are united on the regulation and control of prostitution.

Mr COURT: Will you support the legislation?

Mrs Roberts: We will support the legislation as long as it is comprehensive and bipartisan. Bring it forward. Where are your seventh, eighth and ninth drafts? Have you now got a tenth draft?

Mr COURT: Hang on. Will the Labor Party support the legislation to give the police the powers to control -

Mr Kobelke: Show us your legislation.

Mrs Roberts: We have supported the Bill.

Several members interjected.

The SPEAKER: Order! I have let it go because this is obviously a matter of great importance at the moment. However, we cannot have three or four people interjecting at once. It is not on.

Mr COURT: What a pathetic comment: "Show us your legislation." The legislation is in the Parliament, if members opposite did not know. The Labor Party gutted it.

Mr Kobelke: You have given up. It is too hard for you. You have no legislation on prostitution.

Mr COURT: I ask the Leader of the Opposition if he will support -

Dr Gallop: I have the answer, Premier. I do not need the question. The answer is that the Government could have passed it last December. That is the answer to the question, and you know it.

Mr COURT: We did.

Dr Gallop: No, you did not.

Mr COURT: Does the Leader of the Opposition support the giving of powers to the police -

Dr Gallop: You could have passed it last December; that is the answer to the question - simple and clear.

Mr COURT: Does the Leader of the Opposition support the police being given the powers to control street prostitution?

Dr Gallop: You could have passed that legislation last year. If you haven't got the guts or the wisdom to govern this State, let me sit in that chair.

Mr Kobelke: Absolutely!

Opposition Members: Hear, hear!

Mr COURT: Every morning the Leader of the Opposition gets up and reads his Blair manifesto, which says, "You've got to be tough on crime." When it comes to the crunch, the Labor Party cannot even get a united voice on mandatory sentencing or prostitution legislation. It is soft on crime. I will add one further matter: We have an Anti-Corruption Commission in this State. Up until about Christmas, it had bipartisan support. The Labor Party has now jumped on a bandwagon to try to totally discredit the operations of the Anti-Corruption Commission.

Dr Gallop: That is untrue. That is a disgusting comment from a weak Premier.

Mr COURT: The Labor Party got sucked in by one of its candidates, and it has supported publicly that person's campaign to discredit the Anti-Corruption Commission. It is outrageous for the Chairman of the Anti-Corruption Commission to be required to say once again that those allegations against the commission are false. If the Labor Party wants to take this law and order issue seriously, it must work out what strategy it will adopt.

Dr Gallop: You are the Premier for crime creation. We have record crime rates. This is the crime capital of Australia, and you have the audacity to raise the issue in this Parliament.

Mr COURT: The Leader of the Opposition is not with the ALP executive now. Calm down.

The SPEAKER: Order! I formally call the Leader of the Opposition to order for the first time. Plenty of people in this Parliament want their questions answered. With all that argy-bargy, we have used a lot of question time.

GUNNING INQUIRY, MISSING SUBMISSIONS

650. Mr McGINTY to the Minister for Fair Trading:

- (1) Will the minister explain how confidential written submissions, containing sensitive, private and personal financial information, to the Gunning inquiry can end up in a letterbox in Kallaroo?
- (2) What confidence can the public have in the minister's ability to properly investigate this fiasco when complaints to his department result in threatening writs from suspect finance brokers and submissions to the Gunning inquiry go missing in action?

I inform the minister that I have here the three submissions. However, I would be surprised if people still have any confidence in the minister or his joke of an inquiry.

Several members interjected.

The SPEAKER: Order! We have had some very good question times this year; however, all of a sudden we have this outbreak, with people on the backbench calling out and people adding to their questions after they have sat down. If members want to behave like that, they are telling me that we should seriously consider shutting down question time. I have

not had to do that in more than three years. I want to give members a lot of time to ask their questions. They will get that opportunity if the questions are short and to the point and so are the answers. When answers take 10 minutes, there is not much of question time left. If members on both sides want to persist interjecting, we will have a very short question time.

Mr SHAVE replied:

- (1)-(2) The performance of the member for Fremantle exemplifies his attitude and his contempt for this Parliament. I received some advice on this matter. I was concerned about an issue raised on the radio this morning about letters to the Gunning inquiry going missing. My office has contacted the executive officer at that inquiry and I am advised that the inquiry has contacted Australia Post seeking an explanation. One would think that would be the appropriate thing to do. I cannot think why the Opposition would find that amusing, because when mail goes missing it is a very serious issue. I will advise the House what has occurred, and when I have done so, people will see the depths to which this member will go to try to implicate people in other people's activities or errors. I was advised that the member for Fremantle had visited the person who received the submissions.

Mr McGinty: That is not true; that is a lie. You have just told the House a lie. I demand that you retract it.

Withdrawal of Remark

The SPEAKER: Order! Members have been in this Parliament for quite some time and they know that some language is unparliamentary and impugns people. I want the member for Fremantle to withdraw his comment about a "lie".

Mr McGINTY: I withdraw that comment.

Point of Order

Mr McGINTY: The minister has just told a blatant untruth to this House about this matter. I demand that he correct the statement. I have not been to the house or visited the person he has referred to. That is a blatant untruth.

The SPEAKER: There is no point of order. From time to time members say things in this place that might not be true in the eyes of others. Nonetheless, they can say those things. Many times members interject and say that what has been said is not the truth. That is acceptable. However, we all know that to go that little step further and say that it is a deliberate untruth is a very serious offence, particular when talking about a minister. The member has withdrawn and I assume he did so unreservedly.

Questions without Notice Resumed

Mr SHAVE: My staff advised me on the comments I made this morning. I will seek further clarification as to whether they were incorrect. It is interesting that when the member for Fremantle asks a question, he is hell-bent on not letting me answer it because he does not want to know the truth. What the member for Fremantle should have done when he threw these letters at me was to send them to the correct person, who is Judge Gunning; he should not send them to me. I am not conducting the inquiry; the judge is. That is the first point. The preliminary advice I have is that there is a possibility that there were two bag numbers at Australia Post. How in anyone's imagination the member can blame Judge Gunning or that inquiry for being responsible for some letters being sent to a bag number that may have been duplicated, I do not know.

Mr McGinty: You are incompetent. You should explain why you are a moron.

Mr SHAVE: Why am I incompetent? Why am I responsible for those letters being sent to somebody in Kallaroo rather than Judge Gunning? It is quite clear that the error in this matter remains with Australia Post and it is not an error on the part of Judge Gunning.

Mr McGinty: Blame anyone but yourself.

Mr SHAVE: No. Not even the Press, which sometimes gets it wrong, will be sucked in by that little act.

Mr Brown: The Press gets sucked in by others, does it?

Mr SHAVE: It does very often, and very often the Press does not print both sides of the story.

The other issue the member for Fremantle raised related to Mr Nicolaides, about whom he spoke yesterday, and the Ministry of Fair Trading's terrible act on advice from Mr Nicolaides. What he did not say, and he might tell us whether he was aware of it, was that before the Ministry of Fair Trading sent that letter, which Mr Nicolaides forwarded to Clifton Partners Finance Pty Ltd -

Mr McGinty: It was a formal complaint in respect of section 88 of the Act.

Mr SHAVE: If the member stops yapping he will see how silly he is. What happened in a proper manner was that the ministry contacted Mr Nicolaides by phone and asked him if he would mind if the letter was sent to the mortgage broking firm so that it could justify its actions. This clown -

The SPEAKER: Order, minister.

Mr SHAVE: This member stood up in his place yesterday - and when he spoke he probably already knew that Mr Nicolaides had agreed to the forwarding of that information - and painted the scenario that there was some sort of conspiracy. That is absolute nonsense.

Mr McGinty interjected.

The SPEAKER: Order!

PROSTITUTION LEGISLATION

651. Mr SWEETMAN to the Minister for Police:

- (1) Did the Labor Party pass the Prostitution Bill without division in this House?
- (2) Have members of the Police Service expressed to the minister their frustration with the current 100-year-old legislation?

Mr PRINCE replied:

- (1)-(2) Something that sometimes gets lost in the current debate on prostitution is that the existing law that deals with prostitution is part of the Police Act 1893. Those provisions are over 100 years old. They are not effective, particularly in dealing with street walking and also in other areas, particularly that of kerb crawling; in other words, men in vehicles that crawl around the streets and who proposition women, especially in the inner city suburbs. What we brought into this Parliament was not intended to be a total code to deal with prostitution in all its various forms and manifestations throughout the whole of society. The member for Midland said today that the Bill we have before the Parliament will not sort out the prostitution problems in Western Australia and that it is very inadequate legislation. However, it is not intended to do that and it never was. It is intended to be a Bill to deal with girls who are streetwalking prostitutes; their clients who crawl around the kerbs in cars and proposition them and others; children, whether prostitutes, clients or involved in any way at all in prostitution; the commission of an act of prostitution when a person knowingly has a sexually transmitted disease; the advertisement for people to become prostitutes; and a couple of other related things. It also contained police powers to deal with those offences.

That Bill was brought into this Parliament, and it was debated quite exhaustively and was passed without division by the Opposition in this House. It went to the other place, and a minority of the Opposition in the other place said, "This is an affront to the human rights of prostitutes", totally ignoring the human rights of the residents of inner city Perth. The Town of Vincent is now reduced to the farcical situation of needing to put up barricades, and of wasting police resources in assisting it to do it, when a Bill is before this Parliament that will create the law that the police need to fix the problem on the streets. That is what the people want. The police have been hamstrung in this matter for a long time. This legislation will give the police the power to deal with streetwalking prostitutes, kerb-crawling clients, children in prostitution, and all the other things that are there. We are prepared to concede. We will take out - although we should not - the offence provisions relating to an act of prostitution by a person who has a sexually transmitted disease and knows it. Will the Opposition pass the Bill so that the police will have the powers?

Dr Gallop: Pass it today!

Mr PRINCE: It could have been brought into the Council today. There was an opportunity in the Council today for this Bill to come before it and be passed. Are members opposite in a position to say that the ALP will pass it? No.

MINISTER FOR LANDS, TELEPHONE CALL FROM MACDONALD RUDDER

652. Mr RIPPER to the Minister for Lands:

I refer to the following extract from Macdonald Rudder's bill to the Kingstream-funded Yaburarra native title claimants for an amount of \$90 for -

11-Dec-97 Attendance to file; letter to all claimant clients explaining the current situation. Telephone call to solicitors for BHP and to the Minister for Lands.

- (1) To which person from Macdonald Rudder did the minister speak on this occasion?
- (2) What was discussed?
- (3) Were there other occasions where the minister discussed Karratha land issues with any person from Macdonald Rudder, in particular Mr David Johnston?

Mr SHAVE replied:

- (1)-(3) Like the member for Fremantle, the Deputy Leader of the Opposition has a habit of twisting the truth.

Ms MacTiernan interjected.

Mr SHAVE: We have already handled the member for Fremantle. The only way I can deal with him is to go into the gutter, because he does not know anything else. I will now deal with the Deputy Leader of the Opposition, because he has a little more credibility and standing in the community. Last Thursday, the member for Belmont asked the following question -

What involvement has the minister personally, or his office, had in negotiations with the Kingstream-funded Yaburarra native title claimants and/or their representatives, Macdonald Rudder and Mr David Johnston?

I answered -

I have had no discussion with David Johnston . . . As far as the Department of Land Administration goes, I expect that Johnston, along with everyone else, would have advised the group of claimants and dealt with the matter in the normal manner.

Yesterday, the member for Belmont threw in this question -

I refer to the minister's denial that he or his office had any involvement in negotiations with the Kingstream-funded Yaburarra native title claimants . . .

The member knew that was wrong. He knew when he asked that question that he was not telling the truth about the question that he had asked the week before. What the member did was misquote me, and what he did was untruthful. The member then asked -

Can the minister explain why David Johnston's legal firm, Macdonald Rudder, has billed the Yaburarra . . .

When I was asked that question yesterday, I commented that I had had no discussions with Mr Johnston on the Yaburarra claim. The Deputy Leader of the Opposition then asked -

Will the minister answer the question about the telephone calls to his office . . . ?

I said -

I answered the question. The member asked whether I had had discussions on the issue with David Johnstone and I said I had not.

The Deputy Leader of the Opposition has now asked the same question. I do not know when I will get through to him. I tried in the matter of public interest motion yesterday to make the member understand that sometimes telephone calls are made to my office and I do not get them. If the Deputy Leader of the Opposition had done a good Sherlock Holmes job, he would have looked at all the phone calls. Before the member raised this matter in Parliament, the Press raised it with me; some of the press gallery are very attentive, too. The member would have found, had he done his homework, that the first phone call which came into my office went to a person by the name of Simon Proud. Surprise, surprise! It is all there. The reality is that if David Johnston, as it appears happened, or Macdonald Rudder rang my office, this Simon Proud answered and dealt with the call. That happens with every call on such issues which come into my office. Even if Johnston had called me, which he did not, I would have said, "Go and see Simon Proud." I say the same thing to the members for Peel and Eyre when they have a problem with lands. Those two gentlemen have approached me on several occasions, along with several other members opposite.

I have had no discussions with David Johnston on the native title claim. I do not know where the claim is; I have not bothered to find out because it is handled by the native title unit. If issues arise relating to native title, that unit discusses it and fixes it if possible. Let us hope that over the next few years something is done with native title to sort out the mess.

GOVERNMENT CONTRACTS, REGIONAL BUSINESSES

653. Mr OSBORNE to the Minister for Works:

Can the minister confirm that the Government has provided a contracting environment which will benefit businesses in my electorate, and what steps are being taken to further enhance the contracting system?

Mr JOHNSON replied:

I thank the member for Bunbury for the question. I assure him and the House that the Government is creating a statewide environment to assist business in both the regional and metropolitan areas. I emphasise again that nearly 90 per cent of contracts awarded through the regional offices of the Department of Contract and Management Services are awarded to local businesses. In relation to the second part of the question, very few complaints are made. Over the past five years, the State Supply Commission has received 146 complaints, of which only 38, or about seven a year, were deemed to have some substance relating to minor process issues. The Government has an outstanding record in this area when one considers the thousands of contracts worth billions of dollars processed successfully each year.

The major reforms I announced today include retaining and strengthening the State Supply Commission, as called for by the Opposition in the other place; setting up a process review panel, as suggested by the Panegyres crown solicitor report; expanding the State Tenders Committee, as was recommended also -

The SPEAKER: Order! I do not mind interjections, particularly from the person asking the question, as they give that person an opportunity to have a go. Nevertheless, people are currently interjecting on matters which have nothing to do with the question, which was not asked by the member for Armadale. The Leader of the Opposition is interjecting on some other matter. It is not acceptable. If members want to continue with that practice, I will resort to applying standing orders and start formally calling members to order. I prefer not to do that, but I will do so if necessary.

Mr JOHNSON: I reiterate and conclude -

The SPEAKER: There will not be too much reiteration, I hope.

Mr JOHNSON: No, I will be very brief, Mr Speaker. The Opposition do not like the good news stuff as they want to highlight the bad news.

The Government is expanding the State Tenders Committee. As far as open and accountable government is concerned, the CAMS office bulletin board outlines the tenders coming up, those let and the prices involved; that is, the one accepted and all other prices as well. That is a pretty good record, of which the Opposition would be envious.

FLOOD RELIEF IN NORTH WEST

654. Mr GRAHAM to the Minister for Emergency Services:

The minister would be aware of the record floods in the north west of the State which have resulted in the transport system coming under huge strains, with some towns and communities being completely isolated for weeks at a time. Obviously that has had a major effect on businesses, particularly small businesses.

- (1) What financial measures are available to assist those who are suffering financial hardship as a result of the floods?
- (2) What steps are required to access any available assistance?

Mr PRINCE replied:

- (1)-(2) I am obliged to the member for notice of the question. It has allowed me to obtain some information, although it is incomplete. As I receive more information, I will provide it to the member directly. On Monday, 27 March the East Pilbara local recovery committee was formed to assess and facilitate recovery in the Kiwirrkurra community. Households in that area are being assessed for eligibility to receive the personal hardship grant of \$1 000 per adult and \$200 per child. As the member knows the extent of the flooding better than I, he will also know that assistance has been provided to the many isolated communities in the Pilbara through the resupply of isolated communities plan. That is continuing and will continue in the case of some communities for a month or more, because their isolation is likely to extend for that period. Food and fuel have been airlifted in since the cyclone, and that will go on. Obviously that is part of the response to the emergency rather than the recovery. As for a comprehensive recovery across the whole flooded area, information is still being gathered on the extent of what must be done. The Fire and Emergency Services Authority of WA is gathering information from the various local government organisations, and I hope to take a complete package to Cabinet shortly.

Businesses should contact the local shire offices, which are the first point of contact at present. Householders elsewhere should contact Family and Children's Services. Whether we will have a situation similar to that which was put in place in Exmouth and Moora after cyclone Vance last year is yet to be determined, because it depends on the total value of the damage and whether we can trigger the commonwealth emergency assistance and recovery moneys. We are working on that at the moment. It is dependent on the evaluation of the extent of the damage, which is made difficult while things are still underwater. If the member stays in touch, I will supply him with information as and when I receive it.

FLOOD RELIEF IN NORTH WEST

655. Mr GRAHAM to the Minister for Emergency Services:

The question was whether financial assistance is available, particularly to small businesses. Some businesspeople in towns in my electorate have received no income into their businesses for weeks. If they were in Moora, they would have been assisted. What assistance is available for them?

Mr PRINCE replied:

In Moora we could trigger the national disaster funds because of the extent of the damage. It was assessed very quickly because it related to the one cyclonic event. We must have that assessment, which is being done. If we can get it, it will trigger those funds and we will have the same situation. I cannot say that that is the case today. That is what we want to aim for, but it depends on information which is being gathered now.

RADIOACTIVE WASTE DISPOSAL SITE

656. Dr EDWARDS to the Minister for Health:

The annual report of the Radiological Council of Western Australia, which was tabled yesterday, raised concerns that a residential development had been approved adjacent to a radioactive waste disposal site.

- (1) Where is the site and what is the proposed residential development?
- (2) What types of wastes have been disposed there?

Mr DAY replied:

I thank the member for some notice of this question.

- (1)-(2) I am advised that the proposed residential development is at Dalyellup, which is near Bunbury. The nature of the waste which has been disposed of is low-level, technically enhanced, naturally occurring radioactive waste which has arisen from the processing of mineral sands products. It is also important to point out that the Radiological Council's annual report acknowledges that the development does not pose any risk to future residents or members of the public on the adjacent residential development. However, the issue of concern is to ensure that there is

ongoing identification of the site to minimise the risk of future disturbance. At the moment the site is not a risk to the public or to the adjacent proposed residential development, and as long as the site is not inappropriately disturbed and is properly identified in the future, there will not be any problems.

RADIOACTIVE WASTE DISPOSAL SITE

657. Dr EDWARDS to the Minister for Health:

Does this waste contain detectable amounts of uranium and thorium?

Mr DAY replied:

I have not been advised that it contains detectable amounts of those materials. As I said previously, it contains some low-level radioactive products arising from the processing of mineral sands products. I will check whether that includes thorium.
