WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 25 June 1998

Legislative Assembly

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

BILLS (3) - RETURNED

1. Western Australian Treasury Corporation Amendment Bill.

2. Acts Amendment (Education Loan Scheme) Bill.

   Bills returned from the Council without amendment.

3. Rail Safety Bill.

   Bill returned from the Council with amendments.

LOTTERIES COMMISSION AMENDMENT BILL

Council's Message

Message from the Council received and read notifying that it had agreed to the amendments made by the Assembly.

MATTER OF PRIVILEGE

Select Committee into the Misuse of Drugs Act 1981 - Information Divulged

MR McGINTY (Fremantle) [10.07 am]: Mr Speaker, I raise a point of privilege for your consideration. Since the mid-seventeenth century it has been a contempt of the Parliament for anything done at a parliamentary committee to be divulged before that committee reports the matter to the House. The matter of privilege I wish to raise for consideration relates to the Select Committee into the Misuse of Drugs Act 1981. Members will recall that in November 1997 that committee tabled an interim report in this House. Members will also recall that it was attended by some controversy at the time relating to the question of police corruption involving drugs.

The majority of the committee resolved that questions relating to police corruption did not fit within the committee's terms of reference and, accordingly, the government majority did not mention in its report the evidence received, including a list of 12 allegedly corrupt police officers and other evidence relating to police corruption presented by people such as the Director of Public Prosecutions and others. The minority report found that such matters were within the terms of reference and reported on them. Nonetheless, there was significant controversy surrounding the issue at the time.

The committee's response at its meeting of 23 December following the tabling of that report was to resolve, notwithstanding that the committee's terms of reference did not cover questions relating to police corruption, that any evidence or information on police corruption received by the committee be referred to a proper authority, such as the Anti-Corruption Commission. Of particular relevance at that meeting was a resolution that any referral of such information be by the committee. It was expressly resolved - the minutes of the meeting show this - that the chairman of the committee did not have the authority to act on behalf of the committee in referring any matters before it to anyone, particularly including an appropriate authority such as the Anti-Corruption Commission. So, the committee resolved that the chairman not have that power but that, if evidence were presented, the committee would resolve to refer any allegations or information of police corruption to a relevant authority.

The heart of the matter I wish to raise is that, despite the general and longstanding prohibition on members of a committee divulging matters that transpire before it and in this case the particular prohibition on the chairman's acting unilaterally in respect of material that might be before the committee , on 22 May this year, the chairman of the Select Committee into the Misuse of Drugs Act 1981, the member for Joondalup, wrote to his Liberal Party colleague the Minister for Police stating, among other things, what was resolved at the meeting. He set out a number of resolutions adopted by the committee.

He also went on to state in the letter what had allegedly transpired and was said at various meetings of the committee. The letter from the member for Joondalup was written in his capacity as chairman. It is dated 22 May and states, among other things -

> During the Select Committee's meeting of Wednesday 11 March 1998 Mr McGinty advised that he was in possession of information concerning allegations of Police corruption -

The letter went on to use colourful language, which from time to time has become the norm in that committee. It states -

> At the Select Committee's meeting of Wednesday 6 May 1998 I requested that Mr McGinty provide me with full details of these allegations so they could be dealt with in accordance with the Resolution. In response to my request, Mr McGinty stated "No f ..... way I'm not going to give you the f..... Information."

I do not say that was not an accurate description, but certainly some colourful language was used during that meeting.

Mr Pendal: That is more than colourful language.

Mr McGINTY: Yes, and it perhaps indicates the stage the committee had reached.

The SPEAKER: Order! At this point, there is no motion before the House, and we are not having a debate. This is merely an opportunity to present the House with some facts and concerns, and so on.

Mr McGINTY: The letter from the chairman of the committee went on to request the Minister for Police to undertake certain actions in respect of matters that were before the committee, which the committee had not resolved to deal with in any way. The chairman had been expressly denied the authority to deal with the matter in that way. The letter concludes -

> In short, the purpose of this letter is to refer Mr McGinty's Information/Allegations to you so that you may formally refer them to a proper authority so that they may be investigated.

It was not the chairman purporting to refer any particular allegations, because there was none. He was seeking to refer to a Liberal Party colleague - the Minister for Police - a matter of the internal operations of the committee when the committee had expressly denied him authority to do so.

Mr Speaker, this is a matter of some importance that warrants your consideration. It is a matter of privilege. Given that it is in writing, in expressed defiance of a resolution of the committee, it warrants your consideration as a matter of privilege. It is important both as to the subject matter of what is involved, and from the point of view of the functioning of the committee. One of the impacts of this action has been to render the committee effectively dysfunctional. The committee is currently enforcing the standing orders and requiring the chairman to read every paragraph of an approximately 700 page report to the committee, followed by a resolution for adoption or amendment. That is required by standing orders but it is rarely invoked. Only when a committee becomes bogged down, lacks trust or cannot operate, is such a standing order used. A significant impact is made by this sort of behaviour. I raise the matter for your consideration, Mr Speaker, as a matter of privilege affecting the House.

The SPEAKER: I will need to give a lot of consideration to the matters raised by the member. I intend to do that and to report to the House at a later stage. If the member can assist the process by providing the documentation, I will take it on board. I have a busy morning, but this afternoon I will give the matter detailed consideration.

BANDYUP WOMEN'S PRISON

Petition

Mrs van de Klashorst (Parliamentary Secretary) presented the following petition bearing the signatures of 363 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned people of Western Australia wish to express:
>
> our concern that women on remand are detained by Bandyup Women's Prison with maximum security prisoners: and request that a REMAND CENTRE for adult female offenders be established in the metropolitan area as a matter of urgency.
>
> 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 251.]

BALLAJURA COMMUNITY COLLEGE

Petition

Mrs Parker (Minister for Family and Children's Services) presented the following petition bearing the signatures of 1 274 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 on the State government to honour the commitment made in 1996 by the Education Department to the Ballajura community to fund stage 4 of the Ballajura Community College master plan so that the facilities are ready for occupation by our children in the year 2000.

In good faith the Ballajura community entered into a consultative planning and decision making process with the Department, to develop a quality education facility for the children of Ballajura. The Department has elected not to recognise the commitments made in the past and has stated that they want to renegotiate the completion of the previously agreed master plan.

This community will not enter into renegotiation of the master plan and compromise the educational outcomes of our children.

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 252.]

CAR REGISTRATION FEES INCREASES

Petition

Ms MacTiernan presented the following petition bearing the signatures of 359 persons -

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

We, the undersigned citizens are totally opposed to the State Government's decision to impose a new tax on WA motorists through massive increases in car registration fees.

Western Australian motorists already pay directly to the cost of roads through State and Federal fuel levies.

The revenue received by the State Government from the fuel levy and from the sale of the gas pipeline provides government with resources to develop our transport infrastructure. This new tax is unfair and has a disproportionate impact on middle and low income earners.

And 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 253.]

LANGFORD REDEVELOPMENT PROJECT

Petition

Ms McHale presented the following petition bearing the signatures of 14 persons -

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

We, the undersigned wish to express our utmost disappointment and concern at the delay in the commencement of the Langford Redevelopment Project.

We call upon the Government to take heed of the community's needs and concerns and take immediate steps to ensure that no further delays are experienced and that work on this project is undertaken forthwith.

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 254.]

CHILDREN AT RISK

Petition

Ms Anwyl presented the following petition bearing the signatures of 135 persons -

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

We, the undersigned, are concerned at the increasing number of teenagers running away from home in Western Australia where the Child Welfare system will not recover and return them to parents that are caring for these children.

We believe many of these children remain at risk by being away from their families.

We therefore call on the Parliament to require the Police Service and Department of Family and Children's Services to enforce their powers to effectively recover children to the parental home (where there was a reasonable suspicion that they have fallen into a situation where sexual, drug related or other activities which may be detrimental to their well-being are occurring) and to negate any agreement between Child Welfare agencies and police that leaves parents helpless.

Your petitioners, as always, humbly pray.

[See petition No 255.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Thirty-fourth Report on the Spent Convictions (Act Amendment) Regulations 1998

MR WIESE (Wagin) [10.20 am]: I present for tabling the Joint Standing Committee on Delegated Legislation report on the Spent Convictions (Act Amendment) Regulations 1998. I move -

That the report be printed.

The broad object of the Spent Convictions (Act Amendment) Regulations was to grant the Offender Management Division of the Ministry of Justice an exception from the operation of the Spent Convictions Act 1988. That Act provides, among other things, that it is unlawful to access criminal records which contain spent convictions. It is also unlawful to ask people about their spent convictions or to make an assessment of a person by having regard to any spent convictions which the person may have. The Offender Management Division of the Ministry of Justice uses information on spent convictions in the performance of its functions.

The committee initially queried the need for the Offender Management Division to obtain access to information on spent convictions, given that the Parole Board and the Supervised Release Review Board have already been granted exceptions from the operation of the Spent Convictions Act. The committee heard evidence from members of the Offender Management Division with regard to the procedures by which spent conviction records were provided to the Ministry of Justice prior to the gazettal of these regulations on 27 February 1998. The committee heard evidence from the Offender Management Division that the Sentencing Act and the Sentence Administration Act require that preliminary information be provided to the courts. The Sentencing Act provides that the chief executive officer shall ensure that pre-sentence reports are made, and it is a role of the Offender Management Division to provide those reports. The Offender Management Division is also required under the Sentence Administration Act to make assessments for the placement of prisoners. That matter is also dealt with in the report. Therefore, it became clear to the committee that the Offender Management Division does need to have access to the spent conviction records.

The Offender Management Division is also responsible for the preparation of reports for consideration by the Parole Board. The committee had some reservations about the need for the Offender Management Division to have access to spent conviction information given that the Parole Board already has an exception from the Spent Convictions Act. The committee was advised that the Parole Board relies on the recommendations made in the report prepared by the Offender Management Division; and having heard that evidence, the committee accepted that the Offender Management Division needs to have access to the spent conviction records in order to provide that advice to the Parole Board.

The second matter considered by the committee was whether the amendment regulations were within power, and it accepted that the regulations were within power.

One matter that is of some importance to the Parliament is that the committee became aware during its hearings that the Offender Management Division had obtained access to the spent conviction records prior to the gazettal of these regulations in February 1998 and since the promulgation of the Spent Convictions Act in 1992. Section 28(1) of the Spent Convictions Act provides that a person shall not, without lawful reason, obtain information about a spent conviction, or the charge to which the conviction relates, from an official criminal record; and the penalty for that offence is $1 000. In view of that prohibition, the fact that the Offender Management Decision had obtained access to that information during that six or seven year period would appear to be very much in breach of the Spent Convictions Act.

A memorandum of understanding dated 19 October 1994 between the Western Australian Police Department and

the Ministry of Justice is annexed to the report. That memorandum of understanding gave the Offender Management Division access to those criminal records. The committee seriously doubts whether the Ministry of Justice had lawful reason to obtain that information, and the report indicates that the obtaining of that information, even under that memorandum of understanding, was probably unlawful. Prior to the inception of that memorandum of understanding - or from 1992 to 1994 - the fact that the Police Department provided a hard copy of criminal records information, including information on spent convictions, to the Ministry of Justice would also appear to have been unlawful.

The committee does not have power to delve further into these issues, because that is outside its terms of reference, but the committee draws the attention of the Parliament to those matters.

A motion of disallowance was moved in the upper House. The committee subsequently examined this matter closely and became convinced that the Offender Management Division requires access to the spent conviction records. The committee accepts that the new regulations with which the report deals are within power and that the Offender Management Division is justified in having access to that information. Therefore, the committee resolved to withdraw the disallowance motion, and I understand that was done in the other place earlier this week.

I conclude with the final comment in the committee's report, which states with regard to the lawfulness, or otherwise, of the procedures that were put in place from 1992 until February 1998 that -

However, the Committee believes that this matter warrants further investigation.

I commend the report to the Parliament.

Question put and passed.

[See paper No 1523.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Thirty-first Report on the Vocational Education and Training Amendment Regulations 1997

MR WIESE (Wagin) [10.30 am]: I present for tabling the Joint Standing Committee on Delegated Legislation Report on Vocational Education and Training Amendment Regulations 1997. I move -

That the report be printed.

During the course of its operations, the committee looked at the Vocational Education and Training Amendment Regulations. These regulations amend the intent and content of the Vocational Education and Training Act by way of regulation in matters relating to the prescription of a $100 administration fee for application for registration as a provider. The regulation enables colleges to endorse the payment of fees, it increases fees for tuition at TAFE colleges, and it changes the scheme under which the concession for fees is granted. It was the last matter which was of concern when considered by the committee and it was looked at very closely by the committee. The committee expresses considerable concern at the changes to the regulations providing for the reduction, waiver, refund or payment by an instalment of fees. Previously the regulations provided for concessions and exceptions for tuition fees for categories of student specified in the regulations. Entitlement to a benefit was evidenced by the production of a certificate issued by a public authority, and the reason that these regulations were being changed was that frequent and periodical changes were made in the naming of the classes of benefits. Most of these changes were introduced by various commonwealth departments in relation to many of the benefits provided to people who are, for example, unemployed or for various other reasons.

The effect of the regulation with which this report deals was to repeal the regulation which allows all of what has happened in the past to be done. The substitution of that regulation with this regulation enabled the Minister to grant these reductions, waivers, refunds and so on by a notice. Effectively the regulation brought in a regulation which changed the intent of the Act and the content of the Act, which allowed and required that changes be made by way of regulation. It brought in a regulation to ensure that no longer would it be done by regulation which is subject to tabling in and to scrutiny by the Parliament. It amended it so that future changes would be made by way of notice. Those notices need only be gazetted, and will never be tabled in the Parliament. Therefore, the Parliament would have no opportunity to look at the changes that are made, to scrutinise them, or to comment on them. That is of great concern to the committee. It should also be of great concern to the Parliament.

Rather than speak at length on this issue, what I have said really encapsulates the problem; that is, this amendment gave the Minister unfettered discretion to make changes. It removed the scrutiny of Parliament of that unfettered discretion, and it allowed it to be done by notice. The committee and the Parliament should be concerned about that.

We brought these matters to the notice of the Minister. The committee heard from the people involved. It accepted

the reasoning that the Minister and the department were endeavouring to do it by notice, but we believe that making changes of this nature by way of notice is not an appropriate way to do it, and it is not appropriate that changes of this nature be put in place by a Minister without any scrutiny by the Parliament, especially when the initial Act provided for these things to be done by regulation. In fact the intent of the Act has been totally circumvented by a change introduced by way of regulation.

To briefly summarise, a lot of material is contained in the report, which indicates how the committee dealt with the matter and the discussions that took place. I sum up the outcome of the committee's investigation on the matter by indicating that as chairman of the committee, and with my advisory research officer, we ultimately met with the Minister responsible for these matters on 20 May. The Minister acknowledged the concerns of the committee regarding the new regulation 20 and advised the committee that the regulations will be amended to retain in effect the provision for the granting of concessions by regulation, which the original regulations brought into force. In light of the undertaking given by the Minister to amend the regulations to restore the previous provision, the motion of disallowance which had been moved in the upper House was withdrawn, or in fact the committee sought permission from the upper House to amend the motion of disallowance so that the disallowance applied only to clauses 4 and 5, which deal with the issue we are talking about. That was accepted by the upper House and clauses 4 and 5, which gave the Minister that unfettered discretion, have been disallowed. I acknowledge the cooperation of Hon Cheryl Edwardes and thank her for her prompt and very positive response to the committee's concerns.

The House must be very vigilant, and Ministers and departments must be aware that it is totally inappropriate to use a regulation to take something away from the scrutiny of the Parliament, and to put into a notice or some other subsidiary form of legislation which is not subject to parliamentary scrutiny, matters which the Act very clearly intended to be subject to parliamentary scrutiny by way of regulation. I commend the report to the House.

Question put and passed.

[See paper No. 1524]

REGIONAL POWER SUPPLY ARRANGEMENTS

Statement by Minister for Energy

MR BARNETT (Cottesloe - Minister for Energy) [10.37 am]: I advise the House of changes in the Government's policy for the provision of regional electricity, in the areas supplied by Western Power but not connected to the south west interconnected system. This comprises 29 regional systems.

The high cost of power provision in regional Western Australia, together with the Government's uniform tariff policy, has led to substantial losses, estimated at about $33m in 1997-98. A significant part of the loss was due to the 1995 decision of the Federal Government to raise the excise duty on light fuel oil used to generate electricity in the regions. In spite of many representations from the State Government, the Federal Government has remained unmoved on this issue.

In response to the increase in excise duty, and to give some offset to the losses, interim tariff arrangements for large regional businesses were endorsed by Government in September 1996. The interim tariff surcharge, of up to 8¢ a unit depending on the local power source, applied to any increase in electricity usage for existing customers taking more than 200 000 units a year. For new customers, the surcharge applied to all consumption above 100 000 units a year. The arrangements were partly to give businesses a signal to use electricity more efficiently. However, they clearly discriminate between existing and new businesses and between growing and stable businesses.

The key to the losses in regional power supply is to reduce costs. Cost reduction will not be achieved by simply providing a government payment, in the form of a community service obligation, to make up losses in the entire system. That would give no incentive to reduce costs. It is important for Western Power to operate its regional services as efficiently as possible and to introduce competitive tendering and attract new investment in power generation.

Government has considered these matters at length and has consulted widely. The new regional power supply arrangements include the following key measures. The uniform electricity tariff policy will remain for all 14 300 residential and 4 500 small to medium business customers supplied by Western Power. Where appropriate, a competitive tendering process will be followed for new contract-based regional power supplies by private companies. This will be on a case by case basis for the larger regional systems. I envisage expressions of interest being called in the next few months for power supply in Broome-Derby and then Esperance. Government financial support for new regional energy infrastructure will be provided where necessary to facilitate a project going ahead with supply costs that are close to or less than Western Power's sales revenue from regional systems. This will be done through a suitably structured arrangement in Western Power on a case by case basis and subject to specific Cabinet approvals.

From 1 January 1999, the interim arrangements will cease. Instead, commercial tariffs - specifically the K2, L2 and M2 tariffs - will rise to 20¢ a unit for all consumption over 300 000 units a year. This is an increase of only 4¢ on the base uniform tariff. The R2 commercial time of use tariff, which gives a discount for off peak power even though it is still expensive to produce, will no longer be available. Existing R2 customers will be offered contract arrangements which taper off from the R2 levels to the L2 tariff over an estimated five year period, ensuring that no customers face more than a 7 per cent annual increase on their electricity charges. These changes impact on around 80, or less than 2 per cent of, regional businesses in Western Australia.

Regional customers using more than 300 000 units a year will be given the right, from 1 January 1999, to purchase power from other suppliers and to have it transported over the distribution system for a fee determined by regulation.

The Office of Energy will provide energy efficiency advice to commercial users, and energy audits will be offered through Western Power Energy Services, which will also provide an advisory follow up service.

Subject to lowest operating costs being identified, the Government will negotiate a community service obligation for the small isolated power systems.

The new regional power supply arrangements provide the certainty for businesses in regional Western Australia to plan for future expansion. They maintain the uniform tariff for residential and small to medium business customers, while providing large businesses with the flexibility to seek supply from third parties where opportunities arise. They also allow for government funding of new energy infrastructure, when appropriate, to enable the cost of electricity supply to be reduced.

HEALTH 2020: A DISCUSSION PAPER

Statement by Minister for Health

MR PRINCE (Albany - Minister for Health) [10.42 am]: It gives me great pleasure to to table a report which is a significant step forward in taking health into the twenty-first century and beyond. "Health 2020: A Discussion Paper" is the last in a series of 11 documents produced by the Health Department in a strategic planning process which began in September 1997. This document is the culmination of the most extensive consultation process ever undertaken in this State in the public health area. More than 3 000 people, health experts, community leaders, heads of non-government organisations and consumer groups presented their views on the future direction of health. As Minister for Health, I am proud to table a document which will allow all Western Australians to have a say in the delivery of health services throughout the metropolitan area.

One clear message, which has come through in the consultation process, is the overwhelming public support for health services to be provided, where appropriate, within local communities. While there is immense confidence in the high quality of clinical services delivered in the inner metropolitan hospitals, the public want these services provided closer to home with quality assured. The document I table today puts forward a number of proposals which now need to be discussed and endorsed by the general public. Broadly, these proposals include -

> the establishment of state of the art health centres near major regional retail centres and the newly formed health centres;
>
> the establishment of 12 integrated clinical services to operate across all hospitals in the metropolitan area;
>
> the transfer of appropriate services from inner city hospitals to outer metropolitan hospitals and the newly formed health centres;
>
> where appropriate, the establishment of complementary rather than parallel services at Royal Perth and Sir Charles Gairdner Hospitals; and
>
> the redevelopment and relocation of rehabilitation services at new sites away from Shenton Park.

It is important to note this discussion paper does not promote the closure of either Royal Perth or King Edward Memorial Hospitals as speculated by the media - and none of the proposals I have outlined today has been endorsed by either the Government or the Health Department. We are calling now for the public's input into the final phase of the planning process. I urge all Western Australians to take the time to read this important document and have their say on the future direction of health services in the metropolitan area.

In closing, I acknowledge the chair of the group that put the paper together, Dr Dianne McCavanagh, who is sitting in the Speaker's Gallery, together with two of her staff. They have worked long and hard on this, and it is an excellent document.

[See paper No 1522.]

POLICE SERVICE

Statement by Minister for Police

MR DAY (Darling Range - Minister for Police) [10.44 am]: Between 1993 and 1996, in accordance with an agreement between the Western Australia Police Service and the National Crime Authority, four WAPOL officers served at the Perth office of the NCA. The officers returned to WAPOL after their tenure with the NCA. In 1996, information came to the notice of the police internal affairs unit, as a consequence of which officers from the unit, on a number of occasions, interviewed a drug trafficker who is currently imprisoned for serious drug offences. This person made serious allegations against officers who served at the Perth NCA between 1993 and 1996, including the four WAPOL officers. In addition, an internal NCA audit had also revealed discrepancies. The allegations suggested that these officers were involved in matters of corruption involving drugs and money, criminality and serious misconduct. An assessment of the allegations was discussed by WA Commissioner of Police, Bob Falconer, Commissioner Mick Palmer of the Australian Federal Police and Mr John Broome, Chairman of the NCA.

In view of the very serious nature of the allegations, a joint task force, comprising officers of the AFP and WAPOL, was established in January 1997. The JTF commenced investigations in February 1997, and in the course of this investigation, interviewed every available witness both in this State and others, and examined numerous documents made available by the NCA, the AFP and WAPOL. In the course of the investigation it created some 28 000 pages of documents. During this investigation a number of persons refused to cooperate with investigating officers. Notwithstanding this refusal, investigators pursued every allegation to the fullest possible extent. The lack of cooperation by some of these people meant that not all allegations relating to acts of corruption or criminality could be pursued. Not deterred, the investigating officers investigated a series of issues that came to their notice.

Due to the very serious nature of these allegations, the investigation was oversighted by a board of management comprising representatives, at assistant commissioner level, of the three agencies. The board in turn reported directly to the chief executive officers of the three agencies. This investigation completed its work in mid December 1997. The JTF referred its report to the three CEOs. The Assistant Commissioner (Professional Standards) prepared a summary of investigation, where it relates to Superintendent Taylor and Detective Sergeant Coombs, for consideration by Commissioner Falconer. In accordance with the new procedures, copies of the summaries were served on the officers after Commissioner Falconer determined that he had lost confidence in them. This loss of confidence caused the commissioner to serve notice on the officers to show cause why they should not be removed from the WA Police Service.

The decision to table this information has not been taken lightly and follows wide consultation and consideration. Members will recall the tabling of a similar AFP report on the Argyle Diamond investigation in 1996. I am currently awaiting legal advice in relation to the possibility of tabling the report on Operation Tartan, which investigated a number of allegations. I have consistently said that, where possible, the public should be informed about the outcome of these major investigations into very serious matters, following due process. Indeed, the public has a right to know. The tabling of this information is part of that process.

Point of Order

Mr RIPPER: The Minister's time has expired. It is a very serious issue and the Minister could have and should have used the procedures under standing orders for a long ministerial statement. It is noteworthy that those procedures would have given the Opposition an opportunity to respond to his remarks.

Mr Day: I have one sentence to go.

The SPEAKER: I thank the member for that point of view. It is the second example today and it is a reminder to us all. I think the Minister has a few seconds left.

Statement Resumed

Mr DAY: When members of Parliament, the public and the Police Service examine the information contained within these documents, I believe they will understand the necessity for the actions taken by Commissioner Falconer and his executive team.

[See papers Nos 1525 and 1526.]

SELECT COMMITTEE INTO THE MISUSE OF DRUGS ACT 1981

Extension of Time

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

That -

(1) the date for presentation of the final report of the Select Committee into the Misuse of Drugs Act 1981 be extended to 20 August 1998;

(2) (a) the committee be empowered to present to the Clerk of the Legislative Assembly, while the House is not sitting, its final report, minutes, submissions and all transcripts of proceedings except where otherwise resolved by the committee, which shall be deemed to be laid on the Table of the House; and

(b) the Clerk shall take steps as are necessary and appropriate to publish the report.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Leave to Sit

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

That this House grants leave for the Standing Committee on Uniform Legislation and Intergovernmental Agreements to meet when the House is sitting on Thursday, 25 June.

SELECT COMMITTEE INTO THE MISUSE OF DRUGS ACT 1981

Order Discharged

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

That Order of the Day No 1 be discharged from the Notice Paper.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 3)

Second Reading

MR COURT (Nedlands - Treasurer) [10.50 am]: I move -

That the Bill be now read a second time.

This Bill seeks to appropriate out of the consolidated fund the sum of $199 588 450.05 for recurrent payments made during the financial year ended 30 June 1997, for purposes and services detailed in schedule 1 of the Bill. The payments, which were of an extraordinary and unforeseen nature, were made under authority of the Treasurer's Advance Authorization Act and charged to the consolidated fund under authority of section 38 of the Financial Administration and Audit Act. These payments reflect excess expenditures against 1996-97 appropriations and expenditures for which there were no appropriations during 1996-97.

Recurrent expenditure transactions amounted to $6 427.8m, a net increase of $1 620m from the 1996-97 budget estimate of $6 265.8m. The unforeseen expenditure appropriation of $199.6m sought in this Bill and additional expenditure of $57.4m authorised by other Statutes was offset by underspendings of $95m against other votes.

As underspendings against other votes cannot be netted against excesses or new items approved under the Treasurer's Advance Authorization Act, parliamentary authorisation is required for each vote where expenditure exceeds appropriation or for a new item. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

APPROPRIATION (CONSOLIDATED FUND) BILL (No 4)

Second Reading

MR COURT (Nedlands - Treasurer) [10.52 am]: I move -

That the Bill be now read a second time.

This Bill seeks to appropriate out of the consolidated fund the sum of $19 277 873.88 for capital payments made during the financial year ended 30 June 1997, for purposes and services detailed in schedule 1 of the Bill.

The payments, which were of an extraordinary and unforeseen nature, were made under authority of the Treasurer's Advance Authorization Act and charged to the consolidated fund under authority of section 38 of the Financial Administration and Audit Act. These payments reflect excess expenditures against 1996-97 appropriations and expenditures for which there were no appropriations during 1996-97.

Capital expenditure transactions amounted to $559.7m, a net decrease of $100.2m from the 1996-97 budget estimate of $659.9m. The unforeseen expenditure appropriation of $19.3m sought in this Bill and lower expenditure of $59.6m authorised by other Statutes was offset by underspendings of $59.9m against other votes.

As underspendings against other votes cannot be netted against excesses or new items approved under the Treasurer's Advance Authorization Act, parliamentary authorisation is required for each vote where expenditure exceeds appropriation or for a new item. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CHILD WELFARE AMENDMENT BILL

Second Reading

MRS PARKER (Ballajura - Minister for Family and Children's Services) [10.54 am]: I move -

> That the Bill be now read a second time.

This Bill regulates the operations of the child protection services register, which is evidence of this Government's commitment to protect children by improving coordination and cooperation between government agencies. The publication in New South Wales in August last year of the recommendations on paedophilia of the Wood Royal Commission into the New South Wales Police Service refocused national attention on the issue. The State Government took the opportunity to make an assessment of where we are at and what further improvements are still required. Work has been done to address a number of issues.

The recommendations of the Wood royal commission report on the paedophile inquiry do not automatically relate to Western Australia, with policies and practices in New South Wales quite different from those of the relevant Western Australian agencies. Some of the recommendations require a national response. However, a series of recommendations are applicable to Western Australia in that we provide similar services. The State Government has moved over the past year towards meeting the spirit and intent of those recommendations and this Bill is part of that response.

One of the main points coming out of the recommendations of the Wood royal commission report on paedophilia was the absolute necessity for good cooperation and coordination between government agencies. The royal commission concluded for example that it was necessary to establish a children's commission with appropriate powers and the capacity to oversee and coordinate the delivery of services for the protection of children from abuse, including sexual, physical and emotional abuse and neglect. In that context we strongly acknowledge the importance of improved coordination and cooperation across government agencies. The child protection service register is the formal mechanism to achieve that coordination.

In recent years, a number of initiatives to improve coordination of service delivery to children who have been abused have been introduced, such as the establishment of reciprocal child protection procedures between relevant government agencies in 1996. Other recent developments include -

> The establishment of the WA Child Protection Council in April 1998 to promote coordination between relevant government and non-government agencies and to advise government on how to further improve that coordination.
>
> The fostering of inter-agency understanding and cooperation in the area of child abuse investigation, through a district manager of Family and Children's Services working for a period in the police child abuse unit. This arrangement is being reciprocated with a member of the police child abuse unit working in various areas of Family and Children's Services.
>
> A review of safety screening procedures being implemented by Family and Children's Services with appropriate options being considered to apply to services funded by the department. Other relevant government agencies such as the Ministry of Justice, the Education Department and the Health Department are also developing or improving procedures.
>
> The Ministry of Justice's endorsement of recommendations relating to the expedited hearing of cases involving child witnesses, changes in court processes to benefit child witnesses, the need for specialised training of judicial officers and lawyers and the concept of the provision of expert evidence in cases of child sexual abuse to the court, particularly for trials by jury.
>
> The Education Department's commitment to provide appropriate support and training for all staff in schools on issues related to child sexual abuse, with professional development to ensure that correct procedures are followed in responding to any allegations of child sexual abuse.

The Education Department's commitment to implement the recommendations of the national strategy in schooling to prevent paedophilia and other forms of child abuse.

The development of a proposal for joint interviewing and investigations teams between the police and Family and Children's Services. I expect a report back to the Minister for Police and me within the next six months with recommendations for a pilot project.

This Bill is therefore one part of a package of initiatives developed and progressed over the last year in response to the Wood royal commission recommendations on paedophilia.

The State Government is also participating in a national working party on the cross-jurisdictional exchange of information about persons believed responsible for abusing children.

Concerns for issues regarding children have led to various calls for the creation of either an office for children or a children's commission. The proposed roles of the office for children or children's commission vary depending on the source of advice received. Some see it as a mechanism to ensure necessary coordination of service delivery to children who have been abused, while others see it as a policy coordination unit within government.

The intent of those seeking the establishment of an office for children as a policy coordination unit is that it would provide a clearer focus on the interests of children across the whole of government. The interests of children in general, of course, cannot and should not be considered in isolation from the interests of their families. Consequently, a decision has been made for the creation within Family and Children's Services of a family and children's policy office as a dedicated policy coordination unit responsible for the development and coordination of a whole of government family and children's policy, in a similar way as it is done, for example, by the Office of Seniors Interests on behalf of seniors. Advice is currently being prepared by the Director General of Family and Children's Services on options for the establishment of such a family and children's policy office. However, the formal mechanism to be used for the coordination of service delivery to children who have been abused is the child protection services register, provided for in this Bill.

In July 1996, the Western Australian Government became the first in Australia to establish, on a pilot basis, a register on which all government agencies record the names of children who have been maltreated, as well as the services provided to the child. The register introduces a formal process for the sharing of information between relevant government agencies, including the Police Service, Family and Children's Services, the Health Department, relevant hospitals, the Ministry of Justice, the Education Department and the Disability Services Commission. This register enhances coordination and cooperation, ensures accountability for services and improves the outcomes of child protection services across government. The register will assist government agencies by providing a number of alerts such as where there is multiple agency involvement including previous registrations of child assault or maltreatment; where services have not been delivered or completed; and the identity of a person previously convicted of maltreatment.

The register is designed to meet government reporting requirements on child maltreatment; inform the Minister responsible for administering the Child Welfare Act on government agency responses to child maltreatment; coordinate the involvement of multiple government agencies; inform contributing agencies of previous child maltreatment incidents and confirm the names of individuals who have been convicted of criminal offences against children; require reporting agencies to adhere to the reciprocal child protection procedures; and ensure, where a lead or coordinating agency is not apparent, that one agency assumes this responsibility.

Therefore, the child protection services register pre-empts and satisfies a number of recommendations from the Wood royal commission's paedophile inquiry. It will also provide accurate and reliable information regarding the incidence of child maltreatment in Western Australia. The provision of services and supports to children and their families who experience child maltreatment is the responsibility of all relevant government departments. This requires collaboration between agencies if the most effective outcome for a child is to be achieved. Unfortunately, this coordination has not always been evident. A child or family may receive similar services from more than one agency, or regrettably, receive no services at all.

The child protection services register is a significant strategy for coordinating the services provided to children and their families. The register and its manager will have the appropriate powers and capacity to oversee and coordinate service delivery to children - children who have been maltreated, including sexual, physical and emotional abuse as well as neglect. In this context, the register and the manager will fulfil the coordinating function identified in calls for a children's commission. Therefore, the Government does not intend to establish a children's commission, but rather believes the initiatives being implemented in a real way fulfil the requirement of improved coordination of services for the protection of children.

Since the child protection services register commenced operation on a pilot basis in July 1996, extensive consultation

has taken place with participating government agencies and other bodies which have an interest in child maltreatment. The consultation process has led to a number of changes to the register which are reflected in this Bill. Other than ensuring coordination of service delivery to children who have been abused, an important goal of the register is to provide an across-government picture of child maltreatment, including services provided and outcomes, both to the responsible Minister and to contributing agencies.

The register has been in operation for almost two years. Since it commenced, more than 1 900 names of children have been recorded. Of these children, 80 per cent are aged 12 years and under; one-third had suffered physical maltreatment; one-third had been sexually abused; with the remainder either having experienced neglect or emotional abuse. Family and Children's Services provided over 90 per cent of the notifications. Police and hospitals provided the remainder. Police tended to notify about children who had been sexually assaulted and hospitals tend to report neglect and physical maltreatment.

Legislative regulation for the services reporting to the register will increase the number of registrations of children by other departments. It will also provide to departments which have legal restrictions on the release of information the ability to provide the register with information. It will also assure departments that their records will be treated confidentially.

One of the important considerations in the establishment of the register was emphasising its independence from government departments. Even though the register is physically located within Family and Children's Services, the manager of the register is appointed by the Minister. The manager is responsible for compiling and maintaining the register; enhancing cooperation and coordination between agencies; providing advice to the Minister; and ensuring that reporting agencies comply with the legislation.

The most important function of the register is the recording of information about maltreatment of children, the children's names, details contained in reports, and descriptions of services provided to these children. The register records the names of children where maltreatment has been substantiated or there is a significant risk of maltreatment. It does not record the names of children for whom allegations of maltreatment have been made but have not yet been substantiated.

The requirement to report the maltreatment of children is not to be confused with mandatory reporting. Mandatory reporting requires, by law, that nominated persons must notify the appropriate authority of any allegation of child maltreatment prior to substantiation. Although most parts of the western world have introduced mandatory reporting, research has shown it does not achieve its aim; that is, the protection of children.

As the level of reporting increases, the percentage of substantiated reports does not. Frequent intrusive investigations and reinvestigations are made, particularly on disadvantaged families. High numbers of investigations tend to hide serious cases of maltreatment, thus placing vulnerable children at greater risk. Also, the resources necessary to investigate minor allegations are better used in family support and treatment services.

The Taskforce on Families of 1994 did not recommend the introduction of mandatory reporting in Western Australia and concluded that it was more effective to provide support to parents who are struggling with the difficult task of parenting than make unwarranted intrusions into their family life.

Information concerning the conviction of a person for an offence against a registered child is also recorded. The decision to record the names of convicted persons only on the register was the result of long consideration. The views expressed covered the full range including the preference to record the names of suspected persons through to those with conviction records.

The Bill makes special provisions for persons who are aged under 18 years at the time of the offence. The manager of the register may exclude a name from the register, either of his own initiative or at the request of the person, after taking into account the person's age and the nature and seriousness of the offence. An offence as a result of a schoolyard assault or consensual sex between children under the legal age, for example, may be reasons for the removal of a name of a person who was aged under 18 years at the time of the offence.

It is recognised that government agencies have greater accountability concerning the flow of information than community-based organisations. These controls are embedded in public sector legislation. Further, government agencies are required to undertake the primary investigation and assessment of maltreatment to protect children and to manage services provided, even where those services are delivered by non-government agencies. Most non-government agencies have arrangements in place to report matters of child maltreatment to either the Police Service or Family and Children's Services, which in turn would record the name of the child on the register if an allegation of abuse is substantiated.

Lead agency: A function of the register is to ensure where there are a number of agencies involved, one agency has

prime responsibility. This is to ensure there is no replication of the sad circumstances which surrounded the death of Daniel Valerio in Victoria some years ago. In this case, while there were many agencies involved, there was no agency with the "lead" responsibility and as such there was no comprehensive picture of the risks within the family.

Reports to the register: Under this Bill, approved persons in reporting agencies must make reports to the register. The reports include the name, gender, date of birth and address of the child; the details of the maltreatment, excluding information that could identify the person believed responsible, and details of counselling, support or other services provided to the child and the child's family.

To date a number of the prescribed agencies have not provided information to the register. Agencies have been reluctant to divulge sensitive and confidential information without the protection of the appropriate legislation. This Bill formalises the obligation to provide information and will lead to increased compliance by government agencies. This in turn will enhance the services provided to our children.

Notifications of information recorded on the register: A parent, guardian or other person responsible for the day to day care of a child will be notified that their child's name is recorded on the register, unless to do so would disadvantage the child. Children 12 years or over will be notified, unless the manager determines that notification is not in the best interests of the child. While this notification is a responsibility of the manager, in most instances this process will be undertaken by the registering agency.

Names of children will remain on the register until they reach 18 years of age. Keeping the record for the duration of childhood also enables the tracking of services, particularly where further maltreatment occurs.

Convicted persons whose names are recorded on the register will also be notified. His or her name will remain on the register for 60 years unless the conviction is set aside or quashed on appeal.

The names of persons found guilty of an offence will be placed on the register despite the conviction being considered spent, under the Spent Convictions Act 1988. In addition, juveniles subject to section 55 of the Young Offenders Act will be included where found guilty of an offence against a child.

Access to information on the register: The information held on the register is strictly confidential. Information cannot be divulged unless as prescribed in this Bill. A breach of confidentiality could result in a penalty of $5 000 or imprisonment for 12 months.

To stress the security of the information, discussions were held with the Information Commissioner. On advice from the Information Commissioner, this Bill seeks an amendment to schedule 1, clause 14 of the Freedom of Information Act 1992 whereby the information held on the register is exempt under the FOI Act.

A parent, guardian or other person with day to day care of a child, and children aged 12 years and above, may access personal information held on the register, unless the release of the information would not be in the best interests of the child. There is an appeal process to a judge for persons who have not been provided with requested information.

The manager may notify an approved person of information held on the register in respect of a child about whom that approved person has made a report. Other approved persons would be provided with information when the manager believes that person has a sufficient interest to benefit the welfare of the child.

When the manager receives an inquiry from an approved person as to whether the name of a person suspected of child maltreatment has been previously recorded on the register, the manager can provide the appropriate information if he is satisfied that this course of action is in the best interests of the child concerned.

In conclusion, this Bill will ensure that children who have been maltreated receive the services they require by ensuring better coordination and cooperation between government agencies involved. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CRIMINAL LAW AMENDMENT BILL (No 1)

Second Reading

MR PRINCE (Albany - Minister for Health) [11.15 am]: I move -

That the Bill be now read a second time.

This Bill has its origins in a Criminal Law Amendment Bill which was second read by the Attorney General in the other place on 11 November 1997. As originally presented in the other place, the Bill sought to effect a number of amendments to the Criminal Code, as follows -

(1) to amend section 297 of the code to increase the penalty for grievous bodily harm;

(2) to insert section 474 in the code in relation to counterfeit instruments in the context of preparation for forgery;

(3) to enact provisions in relation to offenders who renege on promises to assist the Crown;

(4) to ensure that time spent on remand by juveniles in relation to sentences of detention is credited;

(5) to effect a number of miscellaneous amendments and repeals to aspects of the criminal law;

(6) to amend section 236 of the code dealing with the taking of forensic samples;

(7) to amend chapter XXXIIIB of the code concerning stalking; and

(8) to amend the Sentencing Act 1995 in relation to whole of life sentences.

These matters subsequently became the subject of two separate Criminal Law Amendment Bills which dealt respectively with the first five of the matters above - in the form of the Criminal Law Amendment Bill (No 2) 1998 and the last three matters above - in the form of the Criminal Law Amendment Bill (No 1) 1998.

The Criminal Law Amendment Bill (No 1) 1998 was considered by the Legislative Council Standing Committee on Legislation, and reflects many of the recommendations of the committee.

Before commenting in detail on the matters contained in the Bill, I remind the House of a number of comments I made in my second reading speech to the Criminal Law Amendment Bill (No 2) 1998 on 31 March, as I consider those comments are as applicable to this Bill as to the earlier Bill.

First, the criminal law of this State is a matter of great importance to those involved in law enforcement and, perhaps more importantly, to members of the community. Reflecting this, members of the House are no doubt aware that the Attorney General recently announced a significant review of the civil and criminal justice systems. Secondly, the Law Reform Commission has been asked to look at the laws, procedures and practices relating to criminal trials and civil litigation, including the role of the legal profession, and to make recommendations as to what changes are necessary to provide the community with a more accessible, affordable and less complex legal system. Thirdly, that another means by which efforts have been made to ensure the relevance of the criminal law is the number of Criminal Law Amendment Bills which have been brought before the Parliament over recent times. In general terms these Bills have provided an opportunity for the Government to advance a diverse range of amendments to the criminal law.

Finally, pending the outcome of the Law Reform Commission review, the Criminal Law Amendment Bill (No 2) 1998 then before the House, and now the Criminal Law Amendment Bill (No 1) 1998, reflects a considered response to a range of more pressing issues of concern to the community and facilitates effective enforcement of the criminal law.

Against this background I now comment on each of the matters which are addressed in the Bill.

Amendment to section 236 of the code dealing with the taking of forensic samples: The Police Service currently obtains approximately 500 samples per year from persons in custody, which are normally obtained in relation to serious criminal offences like murder, sexual assault and serious assaults. However, in the light of a recent decision in the Court of Criminal Appeal, the Police Service, under the present provisions of section 236, is unlikely to be able to continue to take those samples from persons. In taking samples, the Police Service had considered that an "examination" of a person in custody included the taking of samples such as blood from the person. The Police Service based this view on the broad definition given to the term "examination" by the South Australian Supreme Court in Queen v Franklin (1979) 22 SASR 101. However, the term "examination" in section 236 has been considered by the WA Court of Criminal Appeal in King v Queen, Supreme Court, an unreported judgment delivered 26 August 1996.

Wallwork J in King considered that section 236 of the Criminal Code did not authorise the taking of a blood sample from a person without the person's consent. Rowland and Ipp JJ also indicated that they were unlikely to give a broad definition to the term "examination" as provided in Franklin. Also, Rowland J was of the view that it would be desirable for the WA Parliament expressly to provide for the taking of samples from persons in custody on a charge of committing an offence as he had "grave doubts" that section 236 permitted that examination.

In support of reform in this area, the Murray report on the Criminal Code at page 145 had earlier recommended that section 236 be amended to confer a power to "take samples of bodily fluids such as blood or saliva or substances such as hair or fingernail clippings from an individual without his consent".

The Bill amends section 26 of the Criminal Code, principally by inserting a third paragraph into the section, to

provide that the examination of persons in custody include taking samples of the person's blood, saliva, hair and nail clippings, or of any matter which could be obtained by way of a buccal swab. While clearly to the benefit of law enforcement in this State, in effect these provisions do little more than formalise existing practice about which legal doubts have recently arisen. Importantly, I would draw the House's attention to the provisions dealing with the destruction of a sample, and any genetic information arising from the taking of the sample, in particular circumstances.

Amendments to chapter XXXIIIB of the code concerning stalking: As part of the Government's law and justice policy in 1994, the Criminal Code was amended by the Criminal Law Amendment Act to create the offence of stalking. The legislation is based on the premise of the accused intending to prevent or hinder the victim from going about his or her normal lifestyle or intending to cause physical or mental harm or apprehension or fear in the victim. Shortly after the enactment of the stalking provisions, a number of cases were heard in the Court of Petty Sessions which indicated that some forms of "stalking" were not provided for in the legislation. In one case, where the accused visited the complainant's home and office over a period of seven years, the magistrate found that the accused had not intended to intimidate or frighten the complainant; therefore, the behaviour was not within the provisions of the stalking legislation. In another case, the accused had anonymously put flowers, chocolates and music tapes on the complainant's car, and on a separate occasion had sent flowers to her office. The conduct occurred over a period of three months. Again, it was found that there was no direct evidence that the accused had intended to cause harm or fear to the complainant. Consequently, it has been decided that the stalking provisions need to be extended to cover those situations where there is no intent on the part of the accused but the victim nevertheless fears for his or her safety or is prevented from going about his or her normal lifestyle. Therefore, the Bill provides for a new simple offence of stalking which does not involve any intent on the part of the accused.

It will be necessary under the new simple offence for the stalking behaviour to cause another person "reasonably" to fear for his or her safety. Although it is possible that the defendant may not be aware of the likely effect of his or her unwelcome attentions, the proposed amendments are concerned with conduct that causes victims reasonably to feel threatened, intimidated or frightened, rather than being concerned with the state of mind of the defendant. Importantly, the requirement that the stalking behaviour causes another person "reasonably" to fear for his or her safety will prevent the simple offence provision from being over broad; therefore, it will not sweep innocent and acceptable conduct into its net of culpability.

In the course of drafting the new simple offence provisions, it was decided to redraft the entire chapter of the code dealing with stalking to ensure that the wording and structure were more readily understandable. The chapter is now entitled "Stalking" and the behaviour that constitutes stalking is now couched in the terms "pursue" and "intimidate". In the context of "pursue" the Bill uses the word "repeatedly" rather than "persistently" to emphasise that there is no need for any mental element, on the part of the defendant, in the action itself. Quite simply, if the action is repeated then it falls within the definition of "pursue". Also, the forms of communication have been greatly widened so as not to be confined to written and spoken communications, or to other conventional means of communication. Importantly, what are known as esoteric communications - communications that are recognised by the stalker and the person stalked, but possibly of little significance to others - are also intended to be caught. Where the parties are known to each other this is a common occurrence and often the preferred means of communication. For example, a cigarette butt left outside a window, a recognisable footprint, or other traces which will be recognised by the person stalked, could constitute communication.

Another significant change in relation to stalking is that the new simple offence has been structured in a way that it can be an alternative verdict for the more serious indictable offences. The Bill also provides that "pursue" includes doing, whether or not repeatedly, any of the specified acts in breach of a restraining order or bail condition. Again, these changes reflect community sentiment; namely, that people in the community must be protected by well-considered stalking provisions.

Amendments in relation to whole-of-life sentences: In 1998 the Western Australian Parliament, through the Criminal Law Amendment Act, enabled a sentencing judge when imposing a sentence of strict security life imprisonment for wilful murder to make a "natural life order" to the effect that the offender should never be released on parole. These legislative provisions have come under scrutiny in the sentencing of William Patrick Mitchell, the Greenough murderer. Pursuant to the then provisions of the Criminal Code, the sentencing judge imposed a sentence of strict security life imprisonment, and in exercising discretion on whether to grant eligibility for parole, the judge said that looking 20 years ahead he could not say that the defendant would not benefit from parole. His understanding was that the decision as to parole was related to the benefit it would provide to the defendant rather than as an element of punishment. By a majority decision, the Western Australian Court of Criminal Appeal allowed a crown appeal and ordered that Mitchell should never be eligible for parole. However, a unanimous High Court decision in March 1996 set this order aside and would not allow the Court of Criminal Appeal to substitute its views. The legislative provisions of the Criminal Code in respect of life imprisonment have now been transferred to the Sentencing Act,

which came into effect in November 1996. The issues raised by the High Court in the Mitchell case warrant an amendment to the Statute in order to reinforce the punishment nature of the statutory provisions, and to make the task of the trial judge clearer in the event that an exceptionally serious crime like Mitchell's is again committed in Western Australia. The proposed provisions require that a court should not have regard to the factors that would ordinarily be used for determining eligibility for parole. Rather the provisions have been structured so that the court must have regard to the community's interest in punishment and deterrence.

Before concluding, I reiterate the sentiments of the Attorney General, reflected in his tabled response to the report of the Standing Committee on Legislation; namely, that the report emphasises some of the strengths of the committee system and has been effective in persuading the Government to reconsider a number of provisions of the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

MINING AMENDMENT BILL

Second Reading

Resumed from 23 June.

MR RIEBELING (Burrup) [11.28 am]: I am not the main speaker on this Bill; it is the member for Eyre. We on this side of the House support the passage of this piece of legislation which extends the duration of permits for mining ventures in the north of the State from five years to 21 years. The project in which I am interested relates to the ongoing prosperity of Robe River Iron Associates in the Pilbara and the potential expansion of its operations into an area near Newman with the West Angelas project. The importance of this legislation relates to the viability of that project. My understanding is that although it is not absolutely imperative, it will assist the proponents in attracting venture capital for the project. If there were only a five year tenure for the corridor from the West Angelas project to the Wickham area, where the product will be exported, that would not be acceptable to the people investing billions of dollars in the venture.

I am advised that the long term future of Wickham depends on this project being successful. Pannawonica will continue production. The West Angelas deposits are a higher grade of ore and would allow a different market to be tackled, as well as enabling the reopening of the palletising plant, which everyone in the Pilbara hopes will happen. I am told that the quality of the ore is such that the recommissioning of the palletising plant could be viable. The entire region would benefit from that.

The Government and the Opposition hope that the projects that have been announced by the Government will take place. Any obstacle to those projects should be removed, if possible. It makes sense to remove this obstacle. Basically, the Bill seeks to change to 21 years the length of time a lease may exist. Other types of leases would be linked to the same time frame.

It makes sense to tie all the leases into one time frame. Operators will have more confidence when making investment decisions, because all leases will expire at the same time. There will be advantages for proponents when a project is covered by a 21 year lease. The most obvious advantage relates to negotiations on native title, because the proponents will negotiate every 21 years, instead of every five years. The proponents accept that the outcome will be different on the basis of a 21 year negotiation period, and this change will provide certainty for people considering making an investment.

This change is a credit to the Government. I hope that, if nothing else, it will achieve the project at West Angelas by improving the prospects for Robe River Iron Associates and therefore its employees because the project will be more viable. People in the Pilbara will applaud the Government and this House if this single Bill can achieve that project.

MR GRILL (Eyre) [11.32 am]: This Bill is being dealt with expeditiously. On Tuesday the Government requested that we deal with this legislation in this way. We have also received requests from the Chamber of Minerals and Energy and Robe River Iron Associates to deal with the matter urgently, and we have done some soul searching about acceding to that request. Obviously it is unprecedented to be presented with legislation and to be asked to deal with it in such short order. We also did some soul searching because the legislation has native title implications and normally we would consult widely on such a matter. The Minister for Resources Development looked at me quizzically when I mentioned native title -

Mr Barnett: I encourage you to expand on that comment.

Mr GRILL: The legislation has clear native title implications. In most respects, this legislation has been introduced due to the Native Title Act and the uncertainty it has created. If it were not for that Act, we would not be debating

this legislation now; we would simply have taken the path that we have taken before in respect of miscellaneous leases. The implications are that if we pass this legislation, new miscellaneous leases will have a tenure of 21 years, with an automatic right of renewal for a further 21 years. Therefore, although native title claimants will have a right to negotiate at the commencement of the procedure - that is, when the application is made - they will not have another entitlement to negotiate on the licence for another 42 years. Under the old legislation, in conjunction with the Native Title Act, they would have had the right to negotiate every five years. Principally, that is what the Act is endeavouring to divert, because, as everyone knows - and as has been spelt out eloquently by the member for Burrup - if people must renegotiate a vital part of a mining operation every five years, they will never receive funding.

Nonetheless there was much soul searching in our party as to whether to accede to this request, because changing the implications of the Native Title Act for tenements, will have some wide-reaching effects, and many people in the community concerned with native title will be affected. It will not only affect the Pilbara but also the entire State. Our federal colleagues needed to be consulted, and many people involved in this area of the law needed some consultation. Of necessity, our consultation with those people has been truncated. We have not been able to go through the normal procedures of consultation, and that has been awkward. Our federal colleagues have been consulted, however, and they believe that the amendments we are contemplating in this legislation fit within the general framework for renewable leases that our federal colleagues have put together nationally, together with other state Labor Party leaders across the nation.

At the most recent national conference of the Labor Party in Tasmania, Mr Beattie from Queensland expressed some considerable concern about the way in which the Native Title Act featured in the renewal of mining tenements. In the Labor Party there has been some meeting of minds on this subject generally. These amendments fit within the framework that has been put together by the Labor Party. Within the Labor Party, both federal and state, we do not have a great problem with this legislation. However, we would like to have had the opportunity to consult with Aboriginal groups more widely. Notwithstanding that, we believe that there are good reasons for the legislation to proceed.

Those reasons were outlined briefly by my colleague, the member for Burrup. First, if we do not expedite this legislation, a major resource project in Western Australia - the Robe River Iron Associates' West Angelas project - will be delayed for at least three months, and possibly longer. It is an important project, which we want to see progress. We do not want to see it delayed. Inevitably we will agree with this legislation. We cannot have negotiations every five years on critical matters such as railway lines. Therefore, we felt that inevitably we would have to agree with this legislation, and we may as well expedite it so that the West Angelas project can proceed to the next stage.

The second, special reason that the legislation should be expedited is that we could see no way in which people would be hurt by the legislation and, indeed, many people would benefit from it. No doubt, people will criticise that point of view, and, over the next week or so, we will receive a fair amount of criticism in the media. I simply ask those critics of the fact that we did not consult more widely on this legislation, to think about the jobs, development and exports. If we must agree to this legislation, we must take on the chin the criticism because we were not able to consult as widely as we would have liked. People will not be significantly disadvantaged by this legislation.

Native title applicants and claimants may well like a situation in which they have a right to negotiate every five years in relation to an access corridor for a pipeline, railway line, road or electricity line. The Opposition does not think that is realistic, practical or feasible in Western Australia at this time. We are at the mercy of the rest of the world in terms of financing these projects. I say bluntly that these projects would never be financed were they in jeopardy every five years in terms of negotiations. I would not like anybody to think that this legislation is about Robe River Iron Associates only; it is an important aspect, but it is really incidental. From here on this legislation will have general application to all miscellaneous licences in Western Australia.

The Opposition is concerned that this legislation will create a dichotomy. I would like the Minister to comment on this later. Pursuant to this legislation, miscellaneous licences in the future will be of 21 years' duration with an automatic right of renewal of 21 years. Native title negotiations will be conducted at the commencement of that period of 42 years and at the conclusion of 42 years, if the applicant wants to renew the licence. Then another set of miscellaneous licences will be introduced by this legislation; that is, all of the miscellaneous licences in place up to the proclamation of this legislation, presuming it is passed, will have a duration of five years and Aboriginal title claimants will have the right to negotiate when these tenements come up for renewal next time. However, after that, an automatic right of renewal in perpetuity will exist; it will be an automatic right in the hands of the Minister to renew these tenements in perpetuity.

From here on these two sets of conditions will operate in respect of the same set of tenements until such time as the Act is further amended, or until such time as the Native Title Act is amended. An amendment to the Native Title Act

might solve the whole problem, but it appears to be clumsy to have a set of tenements with different miscellaneous licences; the old ones up until this Act is proclaimed will be of five years' duration and the others will be for 21 years with a right of renewal of 21 years which takes the period up to 42 years.

Mr Riebeling: Is there no native title right if something changes in the renewal?

Mr GRILL: The member makes the point that, if changes occur to the conditions of the lease, under the Native Title Act, there would be a right to renegotiate. My understanding is that that is the case and that is the advice we have been given. However, who knows what will happen with the Native Title Act. Two sets of experts on both sides are giving different advice about it. Our advice is that, if a change occurs to the conditions of these licences, whether they be for five years or 21 years, there is a right to renegotiate the native title situation.

I shall explain to members and anybody else who might read speeches on this issue that mining activities in this State are covered by three types of tenements. These are: Mining leases which provide the right to mine and extract minerals; general purpose leases which provide the miner with the right to set up his plant and equipment and tailings dams and things of that nature; and miscellaneous licences which by and large provide the corridors to bring in power, electricity, water, roads and the railway lines. Miscellaneous licences are very important and are an integral part of most major resource projects. If a company does not have the power or the gas corridors on the pipeline corridors, it means that a project may not go ahead or may come to an untimely conclusion.

Mining leases are for 21 years with an automatic right of renewal for 21 years; general purpose leases are for 21 years with an automatic renewal for 21 years. The Government intends this legislation to bring new miscellaneous licences into line with the other two types of tenements. We believe that is reasonable and logical, but, as I said, we will be criticised for this, especially over the lack of consultation. However, it is the best way to go. It is reasonable and fair, and we cannot do much about the fact that it appears to create a dichotomy in relation to the two different types of miscellaneous licences. I cannot see a way around that; maybe the Minister can. If a way around it exists, we would like to synchronise the two types of miscellaneous licences. However, I cannot see a way around it at this time, therefore, we must wait for amendments to the Native Title Act.

People should appreciate that the corridor required by Robe River Iron Associates is for a railway line. That company wants to put a new railway into Cape Lambert which will cover a distance of approximately 400 km. The cost of construction of railway lines is calculated on the basis of $1m a kilometre; so this represents an investment of $400m. The cost of the project will be in excess of $1b. During the course of construction 1 500 jobs will be created and 450 full time jobs will be created. That might not sound a large number, but, in the scale of things, it represents a fair number of jobs. If one applies the multiplier effect, it can be seen this will create a number of jobs further afield. I understand that we will get a larger harbour at Cape Lambert.

Mr Barnett: I think they will extend it.

Mr GRILL: It will accommodate more shipping and the prospect exists, as the member for Burrup mentioned, that the mothballed pellet plant might be recommissioned.

Mr Barnett: If that happens, it will virtually be rebuilt.

Mr GRILL: We would have a pellet farm which would add an element of value adding to the Pilbara which we have not seen for 20 years.

Mr Barnett: We will produce a premium grade pellet.

Mr GRILL: This project will have many benefits and I do not perceive it as having a down side. I understand that Robe River Iron Associates wants to commence negotiations with the Aboriginal title claimants with respect to the corridor so that it can tie it up in one package. Robe River Iron Associates can then go to its financiers and say it has tied this up for 42 years and set out the terms and conditions. If the company said it had tied up the mining and general leases for 42 years, but the corridor for the railway and the roads was tied up for only five years, I do not think it would get its funds.

We are reasonably happy about this matter. We would rather have had more time to consider this legislation and to consult more widely. We appreciate some criticism will be levelled at our position, but we think we are doing the right thing. We hope that this project will get underway in the Pilbara and create many jobs.

MR BARNETT (Cottesloe - Minister for Resources Development) [11.49 am]: I thank the members for Burrup and Eyre for their comments. I do not need to comment further. The member for Eyre has stressed the importance of the miscellaneous licences which cover rail, water, power supplies, conveyors and the like.

Clearly, they are critical elements for major projects. They will become even more important as we move to more

value added investment. I take on board the comments of the member for Eyre about the different terms that will apply because of this change. I hope that will be tidied up in the future. The member has explained the difficulties with the Native Title Act. This change was proposed to be part of a more general mining amendment Bill that would have addressed a number of issues. However, because of the circumstances and the urgency related to Robe River's West Angelas project the Minister for Mines decided to bring this forward, so it was necessary to introduce legislation in this House.

I thank the Opposition for agreeing to deal with this measure. It is not normally the way we would deal with an issue like this. The mining industry, the Chamber of Minerals and Energy, and Robe River Iron Associates in particular, are appreciative of the Opposition's agreeing to help the Government put through this change. I thank members for their support.

Question put and passed.

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

SCHOOL EDUCATION BILL

Third Reading

MR BARNETT (Cottesloe - Minister for Education) [11.52 am]: I move -

That the Bill be now read a third time.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [11.53 am]: The Opposition voted for the second reading of the Bill, and will also vote for the third reading of the Bill. Nevertheless, we are disappointed that the large number of amendments that we moved to the Bill during Committee were not accepted by the Government.

The differences in philosophy between the approaches of the Opposition and the Government in school matters are clear. Yesterday's announcement by the Minister for Education highlights some of the issues raised during Committee. Yesterday, the Minister announced the closure of four high schools, Kewdale, Scarborough, Hollywood and Swanbourne and the downgrading of two others, City Beach and Maddington. Those announcements and the reaction of parents to those announcements highlight some of the issues which have been raised during Committee. We were told by the Minister that the local area planning process would provide parents with significant influence on the direction of local education services. However, in the consultation process, parents found that their preferred options for the futures of their schools were not accepted because they did not meet the planning criteria set by the Education Department.

There has been considerable disillusionment among parents about the consultation process. Even the Minister for Education concedes that the process is flawed. That concession was underlined when the Minister embarked on his own planning process to consider his option before the announcements which he made yesterday. I hope that the Minister will take the next step, which is to fix the local area education process before it is applied to other schools in the State. Members should make no mistake: Local area education planning does not finish with the announcements that the Minister made yesterday. Local area education planning will be extended to the entire State, in particular to primary schools.

This process, which the Minister says is flawed and which he has needed to adjust in individual cases, should be fixed up properly before it is foisted on the rest of the school and education community in this State.

It is a tragedy that in order to achieve much needed education improvements in various communities that other communities have had to lose their community high schools. I note that the Government trumpets that the programs the Minister has announced are valued at $88m. I imagine that this program will not involve any additional government financial commitment and the moneys will come from asset sales. The Minister has cited figures on the proceeds of asset sales, which he says are conservative figures. I imagine the Minister will realise more than he anticipates from those asset sales.

The other aspect that must be taken into account is the operational savings from the closure of schools. They will be ongoing year after year. Over a five or six year period, I would not be surprised if this program were entirely internally funded and did not involve any additional government commitment to the provision of education services.

Mr Barnett: I wish the member was right, and if he was right would that be such a bad thing?

Mr RIPPER: Perhaps the Minister will give us a more detailed financial analysis than has so far been provided in his press releases.

Yesterday's announcement raised issues which are similar to the issues raise in the debate on this Bill. The

Opposition has emphasised throughout this debate the importance of the link between communities and schools. On the other hand, the Government has a vision of schools as business service centres which will service people across large parts of the metropolitan area on a competitive basis. If the Government's vision comes to pass, the important link between local communities and schools will be lost.

The Opposition does not oppose parental choice. We support the idea of parents making choices about the enrolment of their children. We support that within the government system. We also support the funding of the non-government school system on the basis of need, so that parents who do not have great financial resources can, nevertheless, have some possibility of making a choice about enrolling their children in that system. Choice in education must be backed by a strong public school system. That public school system should emphasise the quality of the education, and the excellence of the standards that children achieve. It should also emphasise equality of opportunity in education. It should also emphasise the important need for strong links between communities and schools. The Government has a different approach from the Opposition. It does not talk much about equality of educational opportunity and the need to link schools and communities. It has what in some quarters would be described as an economic rationalist approach to schools. It sees schools more as service delivery organisations than important local community institutions.

These matters will be debated in the months and years ahead because local area planning will not stop with what occurred yesterday. It will be foisted on more and more communities.

The Government's vision for public schools is based on principles of competition. Government schools will compete with each other to attract enrolments from students. That vision ignores the socioeconomic factors which influence the enrolment and educational programs at schools and the challenges which those schools face. It also ignores the important role of the public education system in promoting social cohesion. One of the advantages of a strong public school system is that it educates people from all sections of society and exposes those people to the experiences of other groups with which they might not necessarily come into contact in their lives. If the public school system becomes competitive and selective, we might lose the advantage of the public school system in promoting social cohesion. The different strata of society - the different groups in society - might, through the mechanism of competition and selective enrolment, find themselves in different government schools. If that occurred it would be a tragedy, because one of the big advantages of the public school system would be lost. Labor's approach is to promote excellence, innovation and flexibility in the government school system, and to respond to local circumstances. However, it will also promote the important link between schools and communities and not neglect the role of the public school system in promoting the equality of educational opportunity.

These debates came to the fore during the Committee stage when we discussed the question of local intake boundaries. The Bill provides the Government with the power to declare any school a local intake school and to establish boundaries for the school's local intake area. The Bill does not require every government school to be a local intake school. It is apparent from the Minister's comments that only a small number of schools will be declared local intake schools. The rest of our schools will operate on this business service unit competitive model, with the possibility of selective enrolment occurring to the detriment of the quality of opportunity and the role of the public school system in promoting social cohesion. All government schools should be established, firstly, as local community institutions. I am not opposed to what we now call cross-boundary enrolments. However, the Government has a responsibility to administer the system of choice to bolster those schools that otherwise might lose out in the competition and suffer detrimental effects to the education of the children who remain enrolled.

A related issue is school fees. We had a very stiff debate about school fees during the Committee stage. This Bill allows school fees to increase. This Bill allows those school fees to keep increasing. The Minister told members during the Committee proceedings that it intended to index school fees. Every year from now on school fees will increase. The Minister's justification for this is that the new fees will be roughly at the level which parents are currently paying. Despite the fact that the former fee was a voluntary $9, the new fees will be compulsory and will be to a maximum of $60. The Minister claims that people will not pay more. He draws on evidence that people pay more than the voluntary fee in the additional charges that schools levy for personal consumables, boxes of tissue papers, and all the other things that schools put on the book list to avoid the $9 limit. I am concerned that schools will still engage in this sort of behaviour; that is, put into their budgets the new compulsory maximum fee of $60 proposed by the Minister, put things on the book list and ask parents to make provision for those extra items. It is not true that parents will pay no more than they currently pay. They will pay the new maximum fee and will continue to pay all other charges that the schools ask them to pay; the personal consumables, the books, the extra curricular activities, the excursions, the incursions, and the fundraising activities in which schools encourage them to engage. The cost of education will increase as a result of this Bill. Nothing in this Bill will stop schools from imposing these ancillary charges on parents.

The Opposition moved amendments which enabled the Government to provide all the educational essentials in the

school grant and to prevent schools charging for anything that was provided for in that grant. The Minister rejected our amendments. This matter will need to be considered in the other Chamber. Parents will not be subjected to the equivalent of additional state taxes and charges; they are already being hit by this Government. The Opposition will take a strong stand on this matter. We want to reduce the financial pressure on parents, which is especially important in education as it has a bearing on children's rights to quality education, regardless of the income of their parents.

During the Committee stage, we also debated the question of a grievance procedure. The Opposition sought to expand the role of the various advisory panels established in the legislation. The Opposition also sought to have the composition of those panels prescribed in the regulations to give people a say in the make up of those panels through the consultative process which the Minister has promised in the development of the regulations. The Opposition also sought to keep employees from the Department of Education off the advisory panels because we believe that those employees have a potential conflict of interest when considering grievances which have been raised against their employer.

Finally, the Opposition strongly supported the establishment of an education ombudsman who could make public recommendations to the Minister on the resolution of serious problems which had not been resolved by local attempts at resolution or by the work of the advisory panels.

Most of our debate dealt with matters related to enrolment, attendance, objects and the government school system. However, the debate also included discussion of provisions related to non-government education. Most of the organisations associated with non-government education were happy with the provisions of this legislation. The Opposition raises one more important point: The funding provisions for non-government education do not mention a needs criteria regarding the per capita grants and the low interest loans. The Minister administers schemes in these areas which have an element of needs based funding. However, the state system is much less needs based regarding per capital grants than the commonwealth system. The application of the needs based criteria is even less emphasised on the low interest loans.

The Opposition did not move amendments to these clauses in the Bill. However, this area will need attention in the future. The laws governing assistance to non-government schools should clearly specify that assistance is about responding to the educational needs of children who might not have the income to achieve good quality education. It is about responding to the circumstances of those schools which are not very well resourced.

Many of the Minister's responses to our amendments were along the following lines: He wanted to preserve the flexibility in the Bill as he saw it. The Minister also assured us he would be moderate in using the powers he was proposing Parliament give him. He followed the line of, "Trust me, I'm a good Minister; I will not embark on any of the actions you fear would be authorised by the Bill". The Opposition sought to move amendments to the Bill to guide the Minister and the bureaucrats in the way they used the flexible and broad powers in the Bill. Labor sought to put into the Bill stronger objects and principles which promoted the role of the public education system, the importance of offering to all children in the State a high quality of education, equality of opportunity for educational programs and natural and social justice principles.

Regrettably, the Minister rejected all the objects and principles which the Opposition sought to insert at the beginning of the Bill to guide Ministers and public servants in the use of flexible and broad powers in the Bill.

To a certain extent the Minister was right. The Opposition is trying to develop a Bill which will reflect the policies that Labor would like to see implemented in the education system. I do not back away from those amendments to the objects and principles section of the Bill, nor from any of the other amendments. However, I realise that having those amendments in the Bill would not be sufficient. If we want Labor's protection of the public education system, priority for equality of educational opportunity and identification of the community building role of schools, the community must elect a Labor Government. We cannot have Labor policy with a school education Bill administered by a Liberal Government. We wanted to amend this Bill to advance our policy objectives. However, some of our objectives will be achieved through administrative means and the development of policy. In the end, the only way to achieve what Labor thinks are important priorities in education is for a Labor Government to be elected to administer the Bill.

The matter will now go to the upper House. Some major organisations have indicated they would like more consultation, with not only the Government but also groups represented in Parliament before it makes a final decision on this legislation. I have already indicated that Labor will support the establishment of a committee in the upper House to conduct that further consultation. The Minister is concerned that this committee will delay the implementation of the Bill. He desires to have it implemented by the beginning of the next school year. It is not Labor's intention to frustrate the Minister's desire to implement his Bill by that time. Labor will not unnecessarily extend the committee's consultation process or its deliberations should the move to establish a committee be successful.

However, Labor will not back away from the priority amendments to the provisions for school fees. Nor will it back away from amendments that will preserve the link between local communities and schools, that will support the establishment of an education ombudsman, and that will protect the role of employee organisations and the industrial relations system in government school education. Therefore, I signal to the Minister that some disagreement might occur between the position adopted by this House and that of the upper House when this Bill is finally considered by the upper House. The Opposition intends to pursue important amendments to this Bill in the upper House, even though they have been rejected here.

Some debate occurred on the objects and principles of the Bill. The objects aspect of the Bill must be strengthened. However, more debate may be required on the precise wording of the improvements to the objects clauses. Although Labor wants to improve the objects and principles aspects, it is not necessarily wedded 100 per cent to the precise wording of the amendments moved in this place. Perhaps further discussion should be held on the wording of the objects and principles areas in the upper House committee the Opposition hopes will be established.

With regard to the Minister's desire to implement the legislation at the beginning of the next school year, the process of drafting the regulations should begin now. The Minister said that he will not begin drafting the regulations because he does not know the final shape of the Bill. At least three-quarters of the Bill is settled. There is therefore no harm in proceeding with drafting the regulations for the vast majority of the Bill. The Minister is delaying the implementation of his own legislation if he refuses to embark on drafting the regulations until the Bill has been considered by the upper House. He can proceed with drafting regulations. If the upper House makes half a dozen changes to the Bill, it is a matter of a few days to alter the work already done so that the regulations are in accord with what is in the Bill.

Labor supports this Bill and will vote for it at the third reading stage. It is disappointing that the Minister has not accepted many of the amendments which we moved during Committee. We will now assess the debate in this place, decide with which amendments we will proceed and prioritise them so that we deal with only the most significant issues in the other place.

However, there are issues from which the Opposition will not resile, two of which are school fees, and an education ombudsman.

I conclude by saying that although I have criticised the Bill, I regard it overall as a valuable piece of legislation. I support the modernising of our education legislation. I also thank the Minister for providing the Opposition with substantial briefings from his advisers who drafted this legislation. I particularly thank the advisers for their time spent educating the Opposition about the structure of the Bill which they assisted the Government to develop; nevertheless, I do not agree with all of its detail. As indicated, the Opposition will pursue these matters in the Legislative Council.

DR GALLOP (Victoria Park - Leader of the Opposition) [12.20 pm]: I was getting a little concerned about the Deputy Leader of the Opposition for a second. He was developing a "we're all chums in the scrum" view of the world. There are times in which we need to be very vigilant in opposition; however, I concur with his comments about the way in which this Bill was handled.

From the outset I say that it was interesting listening to the debate on the Bill. One of the highlights was the comments made by the Minister for Education. They were instructive in that sometimes the way to judge a Government and some Ministers is not so much by the explicit statements of policy that may be put forward from time to time, but the prejudices they reveal. I think the Minister for Education certainly revealed a prejudice with his "bludgers" comment. The attitudes of both the State and Federal Governments towards our public school system concerns us.

The Labor Opposition put forward a number of amendments to the Bill, which we believe would ensure a strong and equitable public school system for all Western Australians, and prevent the emergence of a two tier system in Western Australia. One of those key amendments sought to acknowledge the State's principal responsibilities to provide a public education system which is available to all children. I think this is a time when we must reaffirm the importance of a government school system as being integral to a good society and to equal opportunity. Indeed, the public school system represents the community's commitment to all its young people, no matter what their background. We must also have a strong public school system in Western Australia to ensure the choice between government and non-government schools is a genuine one. It is important that access to quality education is not dependent on the ability of families to pay.

Mr Barnett: Why limit choice between government and non-government schools?

Dr GALLOP: We have choice between government and non-government schools, and the Minister knows that. That choice is provided for in a framework that guarantees equality of opportunity. A fair and accessible school system

is, in my view, essential. That is why we have taken a very strong stand on the issue of school fees. This Bill will facilitate an increase in charges for primary school students from a $9 voluntary charge to a $60 compulsory charge.

Mr Barnett: Perhaps $60, at a maximum cap. If you can't, as a former Minister for Education, read and understand the Bill, it raises serious concerns.

Dr GALLOP: I understand it very well.

Mr Barnett: It is a maximum to be set by the school council.

Dr GALLOP: We will come to that. This represents an increase of 566 per cent, which is massive by any measure.

Mr Barnett: This is a deceitful presentation.

Dr GALLOP: No, it is not. I will quote what the Minister said in the debate -

> Total fees and charges may run ahead of that figure, for bookshop items and uniforms.

In addition, parents will still have to pay for specific classes, school excursions and the like.

Mr Barnett: You are dishonest; absolutely dishonest.

Dr GALLOP: Parents will also continue to be asked to participate in fundraising and similar activities.

Mr Barnett: By whom?

Dr GALLOP: That is why there was such community concern over the comments by the Minister.

Mr Barnett: Who does the fundraising in the schools?

Dr GALLOP: It is done by the P & C associations.

Mr Barnett: Would you prevent them? That's not the Government doing the lamington drives; it's the P & Cs. Do you want to stop that?

Dr GALLOP: Interestingly, the contribution to the public education system from all these private sources - sponsorship, P & C association contributions and fees - is $42.5m, of which $27m comes in fees. The parents and the school communities are telling us that the balance between what they provide and what is provided out of the common revenue of the State is being tipped in the direction of user-pays. They believe that is undermining equal access to education. If politicians will not listen to that message, they are doing a great disservice to our public education system. Again today, with his interjections on this issue, the Minister is revealing that he is not willing to listen to what communities are saying about our education system.

Mr Barnett: No. I just think that someone with your background should at least be honest on this issue. You choose to be dishonest on it, and quite deliberately. It is a very sad thing when a former Minister for Education deliberately misinforms this House, as you just did.

Dr GALLOP: I think the Minister might have to withdraw that.

Withdrawal of Remark

Mr RIPPER: It is not proper for one member to allege that another member has deliberately misinformed the House. That is unparliamentary and can be done only under cover of a substantive motion.

The ACTING SPEAKER (Ms McHale): The Leader of the House knows that is quite correct. I ask that he withdraw that remark.

Mr BARNETT: I withdraw, and I will await my opportunity.

Debate Resumed

Dr GALLOP: Of course, the Minister for Education has gone on to justify these massive increases by saying that if the school charge in 1972 of $9 was adjusted to the consumer price index, in 1998 it would be around $58 anyway. That is small comfort to those families faced with the extra cost. The fact is that the fee was not adjusted to the CPI and the Minister wants to play catch-up in just one year. The community has been given no adequate justification for inflicting this policy decision in respect of school fees. From the point of view of our school communities, P & C associations, the parents -

Mr MacLean: I think the Minister was right in what he said about you.

Dr GALLOP: In what sense?

Mr MacLean: What you say is not quite what is in the Bill.

Dr GALLOP: I think it is exactly what is in the Bill.

Mr Barnett: I think it is not, my friend. You should have the integrity at least to reflect what is in the Bill.

Dr GALLOP: I repeat: The Minister has given no justification for this policy of increasing school fees and charges on parents in Western Australia. The reality is that the imposition of these fees and charges -

Mr Barnett: You are letting yourself down. You have a fair bit of respect in the community. When you come in and misconstrue these matters, you lose total respect in the community.

Dr GALLOP: The Minister is totally out of touch. He can continue to have little tantrums on this issue; however, the community will say that he does not like being criticised because he wants to shift education in the direction of user-pays. That is further evidence of the contempt this Government has for people in the community who every day of the week must try to make ends meet, and they are now being asked to put more into the education system than they did before. Currently $47.5m is going in from private sources and $27m is being provided by fees. Yet again, the Government is failing to understand, or even consider, the implications of its tax hikes on families.

Mr MacLean: You should talk to some P & Cs about it.

Dr GALLOP: The member for Wanneroo has the gall to raise that issue with me. After my two years as treasurer of a local P & C association, I know a lot about fundraising by school communities and how difficult it is to raise the money, particularly in low income areas. The Labor Opposition is very happy to hear that the member for Wanneroo thinks the local P & C associations in his area support the user-pays principle. We will be writing to them, letting them know that that is his approach on this issue.

Mr MacLean: They support the ability to have a compulsory fee because they are sick of people not putting in.

Dr GALLOP: Does the member for Wanneroo also thinks there are bludgers out there?

Mr MacLean: I said that there are people out there who are not putting in.

Dr GALLOP: What does the member mean when he says that people are not putting in?

Mr MacLean: You will always find people who are not putting in and you will always find people who don't have two bob to rub together who pay off their fees.

Dr GALLOP: What is the member's term for them? The Minister called them bludgers.

Mr Bradshaw: I call them professionals who do not pay their way in society.

Dr GALLOP: Western Australian families who are expecting a social dividend from this Government will continue to get nothing but higher taxes and charges.

In addition to education cost increases, other taxes and charges have increased this year. Western Australians are facing increased costs in registering and insuring the family car. As a result of this year's Budget the cost of owning a car will increase by an average of $77. Fares have increased for public transport users, including concession holders. We are experiencing higher water, sewerage and drainage rates and increases in the cost of insuring the family home. Estimates show that as a result of the last two state Budgets, average families are $372 worse off. That is not all. Charges for other government services have also continued to increase. For example, the Government has recently announced increases in accommodation fees and landing charges at Rottnest. As a result, family holidays and excursions will become more expensive. A range of other taxes and charges have increased, such as stamp duty for home purchases and so on. At the same time we are seeing a deterioration in the quality of services being offered. In this regard one need look no further than the disgraceful -

Points of Order

Mr BARNETT: Madam Acting Speaker, I would have thought by now you might have considered that this is the third reading of the Bill. It is turning into a general budget debate. The standing orders relating to the third reading speech are specific in that it should relate to the Bill.

Mr RIPPER: When we are discussing provisions that might, in our view, increase the financial burdens on parents, we are entitled to make reference to the other ways in which the Government is imposing on those same parents. The point is the financial pressure people are facing.

The ACTING SPEAKER: The point of order and the further point of order reflect the balance that must be evident in any debate in this House. The third reading speech is about reflections on the process of debate. I remind all members of the importance of focusing on the Bill. However, I will not accept the point of order.

Debate Resumed

Dr GALLOP: I was referring to the deteriorating quality of services, particularly in the public health system.

Mr Johnson: You are not telling the full story. You know full well that those families suffering financial hardship will be assisted.

Dr GALLOP: It is staggering how out of touch government members are with what is going on in average families in Western Australia.

The disturbing fact is that this is consistent with the Government's failure to take into account the impact of taxes and charges on average families. When it agreed to increases in taxes and charges in the state Budget, the Government gave no thought to the impact on average families.

We need a coordinated approach to this issue. The cavalier and arrogant attitude the Minister has taken to educational taxes and charges is no different from the attitude the Government took when it considered the last state Budget. For this Government, it is all about shifting the balance to the individual user. It has done it with electricity, education, water and so on. It is the Government's philosophy, and we are seeing it creeping into all areas of government service delivery. It is no different in education.

Of course, to rub salt in the wound, the Premier claimed that the 1998-99 Budget was a budget for the needy. The Minister for Education, supported in the Parliament today by his colleagues, argued that those who have difficulty paying the fees are bludgers. We had a reinterpretation of that by the member for Murray-Wellington, who said that it was a reference to professionals in society who do not make a contribution. A state Budget that increased the costs of public transport, insurance, water, sewerage and motor vehicle charges was in this Premier's view a budget for the needy. We will not get any assistance from the Minister for Education on those issues.

The Minister's bludger comment demonstrated the Government's fundamental lack of understanding of the financial constraints that exist for many Western Australian families. It is an attitude that no apology can sweep away.

MR MARLBOROUGH (Peel) [12.33 pm]: Unfortunately, what we are beginning to see now with this Minister's rhetoric, within his Bill and with the support of a number of his backbenchers is the marginalisation of the poor in our community. I have many such people in my electorate. I wonder how many the Minister has in his electorate.

Mr Barnett: A surprisingly large number. You should visit some of the high rise flats in Mosman Park.

Mr MARLBOROUGH: Australian Bureau of Statistics figures show that my electorate has a high number of people on low incomes. That is not helped by this Government's policies in a number of other areas. I was surprised to hear the Minister state the other day that people who could not afford education costs were bludgers.

Mr Barnett: I did not say that. You should read *Hansard*.

Mr MARLBOROUGH: I have read *Hansard* and I was here when the Minister said it.

Mr Barnett: I did not say that.

Mr MARLBOROUGH: Yes the Minister did.

Mr Barnett: Will you publicly apologise if you are wrong? You will not because you do not have the guts to do it.

Mr MARLBOROUGH: For what should I publicly apologise?

Mr Barnett: For totally misrepresenting what I said.

Mr MARLBOROUGH: The Minister should tell me what he said.

Mr Barnett: Read *Hansard*.

Mr MARLBOROUGH: I have read it. I want to hear what the Minister believes he said. Was he simply having a gentle swipe at people who cannot afford to pay?

Mr Barnett: I said Australians do not like bludgers.

Mr MARLBOROUGH: I see. I stick by my statement. I was surprised to hear that statement from the Minister.

Mr Barnett: I am sure you felt faint.

Mr MARLBOROUGH: No, I did not, but I was disappointed. I would expect that from a number of other members opposite. It is the language that those in society who are poor and who have difficulty getting through every day have heard from the conservative side of politics for many years. It started as an art form under Malcolm Fraser. He classified all sorts of people as bludgers. If people could not get jobs or pay their way, they were bludgers; if they were not willing to move around the country to get jobs, they were bludgers. Everyone who did not conform to the conservative view of society was categorised one way or another. Some people in that situation turn to minority groups - either as a result of their skin colour or religious or political beliefs. Others are too quick to turn on them and marginalise them. We have seen no better example than the One Nation party. How many conservatives, from the federal leader down, have been willing to get close to that point of view? They are not willing to announce they will put One Nation last either at a federal or state level.

The member for Geraldton has gone along with the statements of Hanson and One Nation -

The ACTING SPEAKER (Ms McHale): Order! I was about to remind the member for Peel of my earlier comment that there is not the latitude in the third reading debate that there is in the second reading debate. He will confine his comments to the content of the Bill with which we are dealing.

Mr MARLBOROUGH: Thank you, Madam Acting Speaker, but I have taken less than three minutes on the point I want to make. The reality is that the whole thrust of the Minister's Bill is to bring about dramatic changes to education in this State. The Minister will argue that those changes are for the better. We proposed 105 amendments to the Bill, which indicated that we have some doubts about whether they will be for the better. We believe that if we are to bring about the sorts of changes that the Minister is suggesting, we should at least put in place some major safeguards, one of which includes the right of people to receive a basic education at no cost to them. That was a key amendment that we moved. We moved a number of other key amendments that said to this Government clearly that if we are to head in the direction of handing over the running of the State's education system to community bodies all over the State -

Mr Johnson: People paid for education under your Government.

Mr MARLBOROUGH: The member for Hillarys did not listen to what I said. I will repeat it so that he might begin to understand it. I said that we moved amendments which would protect the right of Western Australian children to a basic level of education at no cost. We recognise that the education system has always required that some amounts of money be paid. We are not talking about the moneys that are paid traditionally for children to engage in out of curriculum activities, such as weekends away or camps. The need to raise extra moneys to allow students to participate in those activities has always required P & C associations to be very active and hardworking in the community.

However, what is happening in the education system today is a bit like what is happening with the aircraft at Jandakot Airport. That airport has been used by aircraft for many years, and some people would argue that if people buy a house near that airport, they should not be bothered by the inconvenience of having aircraft fly over that house. However, in the past six, seven or eight years, the increase in demand for landing space at Jandakot Airport has meant that people have had to put up with a lot more interference from aircraft.

Point of Order

Mr BARNETT: Madam Acting Speaker, I again draw your attention to the standing orders. The flight path of aircraft at Jandakot has little, if anything, to do with the third reading of this education Bill. It is an absolute joke.

The ACTING SPEAKER (Ms McHale): I take heed of the Minister's comments, and I ask the member for Peel to be aware of standing orders with regard to the third reading debate.

Debate Resumed

Mr MARLBOROUGH: I am obviously getting under the Minister's skin, but I thought I was making it quite clear that what is happening with education is similar to what is happening at Jandakot Airport. The Minister wants to make parents responsible for raising the money to provide things that used to be standard within the education process and provided by government. That is the reality. In the past, P & C associations worked one weekend in four to raise money for their school. They will now need to work three weekends in four to raise the money that is required. When I entered the Parliament in 1986, I did not have a child at school. I now have a seven year old at a primary school. I know how often that P & C association needs to work to raise money to provide facilities at that school. The Minister does not recognise that. He wants to ignore what is happening in schools. He wants to increase the cost of primary school education from $9 to $60, and that will not include the obvious requirement for uniforms and books. The Minister, not satisfied with doing that, then wants to categorise as bludgers those people who he claims

are not willing to pay their way. In the 12 years that I have been a member of Parliament, I have never known a family that has not been willing to pay its way in the education system. However, I have met many families that have been battling hardship and have not been in a position to pay. When we come across that situation as members of Parliament, we can usually intervene with the principal or the district office and find some way of accommodating those families. Those families usually do not come to our attention until after the bailiff has knocked on their doors. That is now the first line of approach to families that are unable to pay. In the past, the family may have received a couple of letters from the school. These days, many schools do not even do that. The first approach that family gets is when the bailiff knocks on the door; and the second approach is when the year 10 student is told that he is not allowed to go to the school ball because his mother has not paid the school fees. That is the reality of what is happening in our school system.

Mr Barnett: Do you think the Government should pay for the school ball? Is that what you are saying?

Mr MARLBOROUGH: Parents have always funded the school ball.

Mr Barnett: So what is your point?

Mr MARLBOROUGH: The point is while parents are doing all of that and are demonstrating that they are willing to put money into education, the Minister wants to slug them with more costs. He is not satisfied with the amount that they are putting in now. The reality is that the Minister believes that by devolving decision making from the central ministry to the school level, he will no longer need to take responsibility for anything that goes wrong. That is the truth of the matter. That is what the Minister's model is all about. That is evidenced by the Minister's rejection of our amendments. If the Minister really wanted to make education better for families and children, he would have accommodated far more of our amendments. The shadow Minister for Education moved 105 amendments, yet the Minister was able to accommodate only five. All of those amendments would have assisted us to have a far better process with regard to the changes that are proposed in this Bill.

Mr Barnett: We accepted eight amendments from the Opposition and we moved a further 21 amendments in response to issues raised by the Opposition. That is 29 amendments that reflected the Opposition's point of view. That is not too bad. You should be pleased!

Mr MARLBOROUGH: Another 80 and the Government might have come close to recognising that we wanted these steps to be in place to benefit children in their education, instead of once again having to live with the Minister's model of what education should be about. The Minister has indicated throughout the Bill that he is unwilling to recognise the difficulties, about which he has spoken in the media in the past month, of bringing about some of these rapid changes in education. The Minister made an announcement yesterday about major changes to the education system. Those changes appear to me to have bypassed very much the process that he tells us will be set up under this Bill; that is, that parents will have the ability to have an input.

Mr Barnett: When I do what the parents want in a number of key areas, I am at fault for that!

Mr MARLBOROUGH: This Bill is very selective about what it wants parents to do. When in the process did parents tell the Minister that they wanted an increase in fees for primary schools?

Mr Barnett: The review panel on fees and charges found that most schools charged in the range between $40 and $60.

Mr MARLBOROUGH: I read that.

Mr Barnett: There is quite strong support in many schools for applying compulsion so that the parents who can pay, pay and those who cannot afford to pay get the financial assistance that the Government intends to provide.

Mr MARLBOROUGH: The Minister has confirmed my point. It is a selective view of what the system should be. In reality, where it suited the Minister he made his own decision to charge fees and bypassed the needs of families.

MR BARNETT (Cottesloe - Minister for Education) [12.51 pm]: In responding to the third reading -

Points of Order

Mr RIPPER: The member for Peel sat down because it is time for members' statements to be taken. Other members on this side of the House want to speak on the Bill. By taking the call the Minister will conclude the debate and other members, who did not come into the Chamber because they thought the 90 second statements would be made, will be prevented from speaking on the Bill.

Mr BARNETT: I do not think that was the case. The member for Peel sat down because he had finished his speech, and no-one opposite was quick enough to stand up. However, I will sit down and allow another member to take the

call. The member for Peel should not imply that he deliberately sat down to allow private members' statements; he had finished his speech and sat down, and the dopey opposition members were not quick enough to get up.

Mr MARLBOROUGH: I want to clarify the situation.

Mr Barnett: We saw you muck it up.

Mr MARLBOROUGH: I did not muck it up. It was clear from a number of signals from the other side of the House that the 90 second statements were due. That is the reason I sat down.

The ACTING SPEAKER (Ms McHale): All members are collectively wasting the next 10 minutes.

Debate Resumed

MS WARNOCK (Perth) [12.52 pm]: Madam Acting Speaker, I seek leave to continue my remarks at a later stage of this day's sitting.

Leave granted.

Debate thus adjourned.

[Continued on page 4794.]

CENTRAL CITY ACCOMMODATION

Statement by Member for Perth

MS WARNOCK (Perth) [12.53 pm]: The Salvation Army recently said, and it is right, that there is a serious and growing lack of cheap accommodation in the central city, and more and more people are looking for this type of accommodation. The Salvation Army is right also in saying that it is partly because old rooming houses are being knocked down for the Northbridge Tunnel, partly because of gentrification, and partly because of growing poverty in society. The Perth Inner City Housing Association is now worried that the Perth hostel in William Street will be closed because of redevelopment in the cultural centre. Although it may be replaced, no extra lodging house accommodation will be made available. This is a serious problem.

PICHA was formed in response to declining stocks of inner city lodging houses more than 10 years ago. Despite branching out into small share houses, PICHA - now also called City Housing - believes that Perth still needs lodging houses in the affordable category. Stocks continue to decline but demand is not going away. PICHA turns away two to three people a day who are seeking lodging in the city. That is an indication of higher and growing need. The age of lodgers looking for accommodation today is younger than it has been since the 1930s. These houses - well managed by groups such as PICHA and the Salvation Army - deserve the Government's continuing support, indeed increased support, and the community's support. I hope the Government is listening.

BANK INTEREST RATE CHARGES

Statement by Member for Murray-Wellington

MR BRADSHAW (Murray-Wellington - Parliamentary Secretary) [12.55 pm]: I bring to the attention of this House another example of why the major banks are not held in high regard by the community. Banks are driven by the bottom line, like many businesses. However, a constituent of mine, Mr Frank Gilbert, borrowed money from one of the major banks, which I do not wish to name as I am sure all major banks have similar practices. This constituent wanted to borrow $5 000 for several weeks to pay for superphosphate. A $50 establishment fee was charged, about which he was not unhappy as he expects to pay for this finance. Unfortunately, Mr Gilbert took it for granted that the interest rate would be moderate as interest rates are low at the moment. However, when Mr Gilbert received his first bank statement, he found he was being charged 16.5 per cent interest, which is over the top. I receive around 3 per cent on a reasonable sum of money in my bank account, and there is a big difference between 16 per cent and 3 per cent. I know that one could obtain a better rate on a term deposit. Nevertheless, Mr Gilbert complained to the bank manager who dropped the rate charged to 14 per cent, which is still far in excess of a reasonable amount. It is about time banks became a little more reasonable with their clients to help restore their names.

SOLVENT ABUSE

Statement by Member for Rockingham

MR McGOWAN (Rockingham) [12.57 pm]: I refer to the misuse of glues and solvents by young people in our community. A number of parents and grandparents in my electorate of Rockingham came to see me about their children and grandchildren being involved in solvent inhaling and petrol sniffing. It is a problem throughout the

entire metropolitan and rural communities. Many young people are adventurous and do things they probably regret later in life. It is incumbent on us to protect young people from these activities. Glue and solvent abuse, such as petrol sniffing, can result in long term health effects with resulting brain damage and lung ailments.

I was surprised to find on investigating the matter that the sale of these products to young people is not outlawed, and no regulations determine where they should be placed in stores. I appeal to the Government, on behalf of people in my electorate, to outlaw the sale of these items to young people, and request that the products be placed in retail stores in places which cannot be accessed and the products stolen by young people. I suggest that it would be appropriate that they be kept behind counters and behind glass in cabinets.

JOONDALUP POLICE DISTRICT'S BURGLARIES REDUCTION PROGRAM

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.58 pm]: I use this brief opportunity to praise the hardworking policemen and policewomen working in the Joondalup police district in solving burglaries in the broader Wanneroo area. Burglaries in this area are solved at a rate almost double the average rate in Australia. This is due to the introduction of the Joondalup district's burglary reduction program in April of last year. The clearance rates for burglaries in March, April and May this year averaged 21.6 per cent, with a peak in April of 24.29 per cent, while the state and national average during these months was between 11.5 and 13 per cent. The aim of the new program is to reduce crime through reorganising the working patterns of police officers in the Joondalup district. This was a first for Western Australia, and is consistent with the recommendations of the recent investigative practices review. Under the new program, the police officer who attends the scene of the burglary owns the crime, so to speak, until inquiries are complete. Further, police are proactive, not reactive, in targeting known offenders. Residents whose premises are burgled are given burglary information kits, and are also provided with advice from the crime resource centre in Wanneroo.

Again, I commend the hardworking men and women of the Joondalup police district, and I particularly commend District Superintendent Daryl Lockart for his initiative in introducing this program.

"MOORDITJ: AUSTRALIAN INDIGENOUS CULTURAL EXPRESSIONS"

Statement by Member for Thornlie

MS McHALE (Thornlie) [12.59 pm]: Recent political developments with One Nation and the threat of a goods and services tax have put the arts industry under serious threat. Pauline Hanson has attacked our cultural and artistic life by asserting that she would direct elsewhere funding currently allocated to the arts. She has also insulted the Aboriginal community with her protestations about funding for Aboriginal initiatives.

Against this backdrop, it was my pleasure to attend the launch of the "Moorditj: Australian Indigenous Cultural Expressions" CD-ROM this morning. The Moorditj - a Noongar word for excellence - CD-ROM celebrates the work of 110 indigenous artists from all over Australia, including some of our own artists such as Sally Morgan. Also appearing on the CD-ROM are Yothu Yindi, Neville Bonner, Ellen José and others. Through Moorditj, members of the community can explore the world of indigenous craft, dance, literature, media, music, oral history, theatre and visual arts from throughout the country. It is a joint initiative funded by the Western Australian Department of Culture and the Arts. I acknowledge the contribution from the Ministers for Aboriginal Affairs and the Arts. It was also funded by the University of Western Australia. I commend this work, particularly against the backdrop of the current political climate.

COLLIE MEN'S HOCKEY TEAMS

Statement by Member for Collie

DR TURNBULL (Collie) [1.01 pm]: At the recent country week competition, the Collie men's hockey teams were extremely successful. Two of the teams were champions in their divisions and a third team was a runner up. This success is attributed to the members of the teams focusing on two very important themes. The first is the wonderful team work and spirit with a balance of young players and experienced players. The second is due to the new artificial hockey turf. The players are extremely pleased with the new turf. They have been able to upgrade their skills enormously and they attribute this to their great success. The artificial turf is the result of an enormous commitment by the Coalfields Hockey Council. It has raised $170 000 and is paying off a loan. This has been supplemented by the grant of $170 000 from the community sporting facilities grants. This CSFG program is a wonderful way of assisting country communities in establishing very high standard sporting facilities such as the new artificial hockey turf in Collie.

Sitting suspended from 1.02 to 2.00 pm

[Questions without notice taken.]

MEMBER FOR JOONDALUP - POLICE CORRUPTION

Personal Explanation

MR BAKER (Joondalup) [2.47 pm]: I seek to make a personal explanation pursuant to Standing Order No 117. The sole purpose of my remarks is to correct any wrong impressions that may have been created this morning by the member for Fremantle, when he alleged that I had breached parliamentary privilege and that obscene language is quite usual in the deliberations of the Select Committee on the Misuse of Drugs Act 1981.

I first refer to the alleged breach of parliamentary privilege and quote from Standing Order No 375 which states -

> Unless the House or the Committee otherwise orders, no member of a Select Committee of the House shall, nor shall any other person, publish or disclose the evidence (including documentary evidence) received by such Committee until such evidence shall have been reported to the House.

I emphasise the word "evidence". Members may recall that when the interim report of the Select Committee on the Misuse of Drugs Act 1981 was tabled on 27 November last year, the member for Fremantle criticised the committee for not investigating allegations of police corruption or referring them to the Anti-Corruption Commission or any other appropriate or proper authority. Prior to tabling its first report, the select committee had resolved that it was not empowered or required under its terms of reference to inquire into and report upon allegations of police corruption.

During the debate that ensued on 27 November last year when the report was tabled, it was alleged that the member for Fremantle could not have referred any allegations to the Anti-Corruption Commission because of the privilege attached to such evidence, if it was evidence, pursuant to Standing Order No 375. This would have to be resolved in due course but, in any event, I had some concerns about this. I could not have referred any allegations of police corruption to the ACC or a proper authority for the same reasons that the member for Fremantle was prevented from so doing.

In view of the concerns raised in this House on that day, concerning the application of Standing Order No 375, the committee subsequently passed a resolution opening up the application of Standing Order No 375 and I quote briefly from it -

> That any evidence or information given by any witnesses appearing before the Select Committee or any information provided by any member of the Select Committee alleging, expressly or impliedly, police corruption in the WA Police Service's drug squad (including information, mere assertions and tangible evidence) be reported by the Select Committee as soon as reasonably practicable thereafter to a proper authority notwithstanding -
>
> (1) Standing Order No 375 of the Legislative Assembly of the Parliament of Western Australia;
>
> (2) The wishes of the person who gave such evidence or information;
>
> (3) Any doubt concerning the application of Parliamentary Privilege to either the evidence hearing during which such evidence was adduced, or the evidence or information; or
>
> (4) The Select Committee's terms of reference.

This resolution was passed unanimously by the select committee at its meeting of 23 December 1997. At a subsequent meeting of the committee on 11 March this year, the member for Fremantle advised the committee members present that he was in possession of information concerning allegations of police corruption. At a subsequent meeting of the select committee on 6 May of this year, I asked the member for Fremantle to provide the information on the allegations so they could be referred on, in accordance with the committee's resolution. The member for Fremantle, using certain language, declined to do so. I will deal with the other "misimpression" he may have given concerning the language used in a moment.

I wrote to the member for Fremantle on 12 May this year requesting that he refer any such allegations, assertions, etcetera to me so that the matter could be dealt with and be referred to a proper authority. In response to that request - remember, it was a matter of grave concern in his mind on 27 November of last year - he wrote back to me with a two sentence letter, which reads -

> I refer to your letter of 12th May, 1998. Please take my advice and grow up.

Hence, the importance the member for Fremantle attaches to the allegation of police corruption. I subsequently wrote

to the Minister for Police asking him to deal with the matter in the appropriate manner and to refer the information to the appropriate authority. Of course, the member for Fremantle rose to his feet today complaining that the Minister for Police wrote to him asking the member to refer any allegations he has to a proper authority.

I deal now with a second allegation; namely, words to the effect that it was not unusual for colourful language to be used during the committee's deliberations. It was not the case at all. If anything, the colourful language emanated from the member for Fremantle. I wish to correct the statement and refer to some correspondence which supports what I just said. On 7 May of this year, I received a letter from the member for Carine from which I quote the following extracts -

> I write to express my disgust and disappointment at the behaviour of the Member for Fremantle, Jim McGinty MLA, during the Misuse of Drugs Act Committee meeting held yesterday.
>
> I wish to place on record that I took great offence at his most unpleasant, unparliamentary and obscene language. Frankly that kind of behaviour cannot and should not be tolerated.

The SPEAKER: Order! These are very serious and difficult matters. The rule is that, just as the member for Fremantle used his opportunity this morning to raise certain matters, the member for Joondalup must not enter debate with his personal explanation. He is on the verge of debating this matter. If the member is factual, there will be no difficulties.

Mr BAKER: I subsequently wrote back to the member for Carine acknowledging her concerns about the behaviour exhibited by the member for Fremantle, in which I referred to the behaviour as being "obscene and vulgar". I undertook to take the appropriate action in the future if he again exhibited the same behaviour.

In summary, on this issue, at no stage has the member for Fremantle ever been a witness appearing before the select committee; at no stage whatsoever has the member for Fremantle given evidence to the select committee; and at no stage have other members of the select committee used the type of language the member referred to earlier this morning. The matter of privilege he raised was nothing but yet another stunt and is consistent with his modus operandi throughout the whole of the committee's deliberations.

Point of Order

Mr RIPPER: My understanding of a member's right to a personal explanation in this House is that the member should explain, not debate, the issue. When we have references to an alleged stunt by members, that is a debating point.

The SPEAKER: I accept the member's point. I remind the member for Joondalup that the whole House is giving him the courtesy of listening to him, but the rules are that no debate take place. Otherwise, I will have to bring this explanation to a quick halt. For members' information, I am yet to consider this matter as I have had a very busy morning. However, when I leave the Chair later this afternoon, we will start some deep consideration of the issues raised.

Personal Explanation Resumed

Mr BAKER: Also, when I wrote to the Minister for Police referring the member for Fremantle's information to him so it could be dealt with in a proper manner, I signed the letter as the Chairman of the Select Committee into the Misuse of Drugs Act 1981. I wrote that letter in my capacity as chairman. It was well within the scope of my authority or powers, so to speak, to do so in accordance with my position.

I raise these matters with the House again pursuant to Standing Order No 117 to correct any "misimpressions" that the member for Fremantle may have given to the Chamber this morning when he rose to his feet and misled this House.

Point of Order

Mr RIPPER: The member for Joondalup has just sat down. However, I regard his last remark as a defiance of the ruling you made, Mr Speaker, in response to my previous point of order. I am not sure what action you can take, but you should take some action to uphold the ruling you made.

The SPEAKER: The member for Joondalup did not impugn anyone. However, I think he took advantage of the situation and it is something that I shall remember. It is not a smart trick to give a parting shot when sitting down when a member has finished what he wants to say. I ask the member for Joondalup to reflect on that. Other people could start to do the same thing, and before we know it, we would have all sorts of difficulties in the Chamber. It may be something to refer to the Standing Orders and Procedure Committee if it becomes a practice; it is certainly not one I support.

MATTER OF PRIVILEGE

Select Committee into the Misuse of Drugs Act 1981 - Committee Proceedings Divulged

MR BARRON-SULLIVAN (Mitchell) [2.58 pm]: I briefly raise a matter of privilege in the same tone as a matter was raised this morning. I raise it now because it may be appropriate for the matter to be considered in conjunction with the matter of privilege raised this morning. It relates to the activities of the Select Committee into the Misuse of Drugs Act 1981. I refer the House to a media report -

Point of Order

Mrs ROBERTS: Has the member sought leave?

The SPEAKER: To clarify, one needs to seek the leave of the House for personal explanations. If one member objects, leave is not granted. On the other hand, to raise a matter of privilege, the practice of the House dictates that the matter can be raised forthwith, but not debated.

Matter of Privilege Resumed

Mr BARRON-SULLIVAN: Obviously I would not take this action lightly, and I sought advice from the Clerk prior to speaking. For members who are not aware, I am a member of this select committee. I refer the House to a media report of 24 December 1997 which contained reference to the proceedings of a meeting of the select committee. The relevant part of the report reads -

> Mr McGinty told *The West Australian* that he had demanded a public apology from Mr Baker . . .
>
> At the heated meeting a no-confidence motion against Mr Baker was defeated . . . But the committee did not discuss the claims against Mr McGinty put on the agenda . . .
>
> Mr Baker said he could not comment on what had happened at the meeting but said he had been a target of the Opposition since the committee was formed.

I briefly raise that matter which needs to be considered as a matter of privilege.

Dr Gallop: What date was it?

Mr BARRON-SULLIVAN: It was 24 December 1997.

QUESTIONS ON NOTICE UNANSWERED

MR KOBELKE (Nollamara) [3.00 pm]: Mr Speaker, I draw your attention to the eight full pages of unanswered questions. A standing order allows a member to ask whether there will be an answer to a question that has been outstanding for three months. I am not in that position and cannot use that standing order, but I ask whether you can provide any assistance to have some of those eight full pages of questions answered, given that this is the last sitting of this session of Parliament.

The SPEAKER: The member has taken a point of order on a different subject. We will come back to that. I remind all members that matters of privilege must be raised as soon as possible and members should remember that. I have not had the opportunity to consider this matter and I will do so this afternoon. The member for Nollamara has made a point and I am sure that Ministers present will speak to their staff and provide those answers.

SCHOOL EDUCATION BILL

Third Reading

Resumed from an earlier stage of the sitting.

MS WARNOCK (Perth) [3.01 pm]: I commend my colleague, the Deputy Leader of the Opposition, on the diligent way in which he has approached the work on this very large and complex education Bill. I will not canvass the areas which have already been canvassed in a long series of speeches during various stages of the Bill, including a very long Committee stage. The Deputy Leader of the Opposition has been out and about among the school community and has done his best to ascertain the views of the many stakeholders in education in our community, including the teachers, parents and students. I will not canvass those areas again, except to commend my colleague for the hard work he has done on this issue, as indeed has the Minister. However, I reiterate that the Opposition remains absolutely firm on the two issues mentioned by my colleague this morning - the matter of an education ombudsman and, in line with the view that the Labor Party has always supported free, secular and universal education, and voluntary school charges.

One further matter to which I will allude concerns a matter adjacent to my electorate. I was going to say in my own electorate, but due to the last boundary change, the Mt Lawley Senior High School is now slightly outside the boundary of the Perth seat. I am very aware, as I attend the school regularly, that many parents who live in the Mt Lawley area send their children to that school and many are constituents of mine. About four years ago, my colleague the federal member for Perth, Stephen Smith, and I visited the school to discuss the possibility of a joint performing arts centre between the nearby Edith Cowan University - in other words, the Western Australian Academy of Performing Arts - and the Mt Lawley Senior High School. We had an idea at the time which we discussed with the visiting Minister of the previous Labor Government, Ross Free. We were aware that the idea had been in the wind for some time and had been discussed on many occasions. I am pleased to see that the matter is under discussion with the present Government and the present joint member, if I may put it that way, for the Mt Lawley Senior High School, the Minister for Housing and Aboriginal Affairs. We are both very interested in the school. He has been doing a great deal of work on this idea and I support that. I have discussed it with the principal, Ian Murray, on many occasions and with the people at the WA Academy of Performing Arts. Using a slang phrase, I thought at one stage, and I understand that John Curtin Senior High School thought of the same thing, that the Mt Lawley Senior High School might be something of a "Fame" school and should specialise in the performing arts. It has had a distinguished record in encouraging students to study music and has turned out an extraordinary number of excellent young performers. I have been impressed with that and watched the school -

Mr Barnett: We have a problem with your policy on local intake boundaries.

Ms WARNOCK: A small problem, but we are not entirely opposed to the idea.

Mr Barnett: Half are nodding and half are shaking their heads - no idea.

Ms WARNOCK: There is no problem.

Mr Barnett: You should talk to your education spokesman. He spent time the other night opposing the policy.

Mr Ripper: There is no problem.

Mr Barnett: You are coordinated in your approach - tight operation.

The SPEAKER: The member for Perth is being very patient. She has allowed too many members to interject.

Ms WARNOCK: I am an extraordinarily patient person, Mr Speaker.

Mr Ripper: People living in Mt Lawley would have to have some right to enrol at the school.

Ms WARNOCK: I discussed that idea with my federal colleague, the federal member for Perth, Stephen Smith, on several occasions. I commend that school for being prepared to discuss the idea of a joint performing arts centre with the nearby academy; it appears to be logical. I also commend the teachers at that excellent school for the extraordinary work they do. I have in my electorate, as do many other members, private schools which are better funded than the government schools in the area. Nonetheless, the standard of education and diligence and commitment of the teachers in that school is something to behold. It is always a joy to me to visit that school and see how well they do, particularly under the guidance of their principal, Mr Ian Murray.

MR KOBELKE (Nollamara) [3.08 pm]: I will address three areas in which I have concerns. I am pleased that the Minister has brought forward this Bill. It has been in gestation for many years. The Minister is pleased, and perhaps slightly relieved, that the Bill is finally approaching the completion of its passage through the Assembly. As with most legislation, the Opposition overwhelmingly agrees with the purpose of the Bill, but is concerned about certain aspects. When one raises those concerns and those points of disagreement, it is quite usual that they are highlighted, therefore one is seen as being in conflict with members on the other side on the legislation. We disagree on many issues. However, we must put that in the context of the need to update the legislation covering education in this State which is being achieved through this Bill. We commend the Minister for that and members can all have a sense of satisfaction that it will be achieved.

I commend particularly the Deputy Leader of the Opposition who put a huge amount of time and effort into the Bill and has carried the debate very ably from this side of the House.

Without canvassing the second reading debate, I raise one point about which I have some disagreement. I am disappointed that the objects contained in clause 3 are pragmatic, functional objects rather than objects and principles laying down a theme for education in Western Australia which would lift education by showing that values are involved. I know that is a difficult area. However, we cannot have education without values. They may be values arrived at by default because no process of developing and gaining community support for those values has been conducted. One cannot have education without values. The suggestion that they can be run as a separate subject

misses the whole object of educating our young people to their full potential; of teaching them to understand that they have a place in our community; and giving them a sense of fulfilment so that they can contribute to the community. One could go further and define those objects in detail. However, here we have management type issues which relate to the objects of the Bill. That is an opportunity missed that we have not been able to take further.

The next point exemplifies that management approach because in some areas, such as the school starting ages, school size and fees, the Bill is about how the system will be managed. We have problems on this side of the House with some of the value judgments and policies which have been taken up in some of the clauses.

Clauses 5, 6 and 7, which relate to the school starting ages, are quite complex for anyone trying to read them. Their complexity is due to the current period of transition from the existing compulsory school starting ages. I do not disagree with the arguments for change. However, I am concerned about the way the process has been initiated, about the lack of a clear strategy to deal with a major change in the structure of schooling in this State, and that in those clauses, and others that flow in for different reasons, we are simply trying to make it work rather than having thought through, prior to committing to the decision, a range of matters that come into play when the compulsory school ages are changed.

I will outline briefly what the changes will do so that we understand some of the consequences of the change in the school starting age, which is incorporated in the Bill.

Most members are aware that the first year of compulsory schooling in Western Australia is known as year 1. Children start year 1 in the year they turn six years of age, which means that the youngest child may be a day or two over five years of age and the oldest child may be a day or two short of his or her sixth birthday. My proposal does not make allowance for special cases, only for what should apply to the overwhelming majority of young people going through our school system.

This Bill proposes that in 2003, the school starting age for a child be the year in which the child turns six and a half years of age. There is a minor - and I say minor - administrative difficulty with that in that it is much easier for parents who are not well versed in the education system to know that their child will be six years old in a certain year and that is the year the child will start school. There is a complexity in that provision that will cause some concern to parents. However, if there were good educational reasons for all of this, that would be a minor difficulty which could be addressed through educating people and advertising those changes.

Under the provision, the first year of schooling will start when the youngest child is five and a half years or slightly over and the eldest child is approaching six and a half years. There is no evidence to suggest that our young people are maturing at a later time. There is evidence to the contrary; that is, that children, if anything, are becoming a little more precocious and maturing slightly earlier and, therefore, it would be preferable for them to start school earlier not later. There is no justification for putting back the starting age for compulsory schooling. We should take account of the other changes taking place; that is, the preprimary year will become universally available. Although it will not be compulsory under the Bill, 95 per cent or 98 per cent of children in that age cohort in the year prior to compulsory schooling will be involved in preprimary classes, which will go close to being full time, if not full time, depending on the policy of the Government of the day.

All students will start their schooling in the year in which they turn five and a half years - many of them will be four when they attend preprimary classes - and then they will move through the system from there. We then come to one major adjustment to be made in the structure of the school. In the first year of full time schooling, they will be younger; instead of seven years of primary school and five years of secondary school, we will move to a system of eight years of primary school and five years of secondary school. That opens up problems that I will return to in a moment, because the system as we know it will not cope with eight years of primary and five years of secondary schooling. The Minister has already alluded to middle schooling and I will return to that later.

The whole curriculum will have to be shifted, which is something that can be done; the Curriculum Council is revising the curriculum anyway. However, there will be an additional element of taking into account the formal education age, which now starts through grade one but which will occur in the preprimary year. We will have to shift this balance with the developmental education, which is currently the key emphasis in preprimary school, being moved back a bit and that preprimary year taking on the formal introduction to literacy and numeracy.

In the end, we will not change what is taught to students at a given age group. We will simply change the packaging so that children who are now at the given developmentally ready age for formal education will get the formal education. However, we will call it preprimary, not year 1; and they will be in the year prior to compulsory education, not in compulsory education. That situation already exists in Victoria, New South Wales and the Australian Capital Territory. Those States and that Territory do not have eight years of primary education. They have a seven and six arrangement for their 13 years. We have currently a seven and five arrangement, which makes

12 years of schooling. When we add the preprimary places universally available and taken up by nearly all students, we will have an eight and five arrangement. We are simply reshuffling the whole thing. To what effect? My real concern is that the changes set off by the Minister were set off on a false premise.

The false premise is that children in Western Australia start school at a younger age than those in other States, whereas they start at an older age. This becomes very confusing because of the different names applied in different States and the variation in the educational programs across the other States. With this whole set of changes, Western Australia will be moving to a situation in which it will have the 13 years of schooling available, as is currently the situation in New South Wales, the ACT and Victoria. It is different in Tasmania, South Australia and Queensland. Western Australia will then have to address the issue of moving students from primary to secondary education. That will be phased in as the cohort moves through. That is part of the reason for the complex wording of those clauses that relate to school starting ages.

This opens up another problem at the end of school. Under our law, students are currently allowed to leave school at the end of the year in which they turn 15 years, which is now called year 10. When these changes take place and the cohort moves through in about 2010 or 2012, a compulsory school leaving age will mean that the final year will be the year when students turn fifteen and a half years. Half that year's cohort will be a year older in year 10. There are some problems with that but they are not as great as they will be with year 12. The problems there will relate to fitting in any available training programs. Given the huge range of changes that will take place there, the adaption to that is one which I hope will be handled. In the final year, which is not compulsory at present, there will be a shift from students who are currently turning 17 years in year 12 to students who are turning seventeen and a half years. The current situation is that most students are age 16 years when they start their final year of school.

Mr Barnett: You have it wrong.

Mr KOBELKE: Let me finish this and I will take the Minister's interjection. The situation is complex and I wish to set it out clearly.

My final point on that is that most students are age 16 years when they enter their final year of school and turn 17 years during that year. At 17 years of age they are legally able to get a driver's licence. That is something Western Australians have coped with for many years. The ability to get a licence, become more mobile and take on added responsibilities are major events which should be seen as part of the whole educational process. We must realise the impact that can have on the education that children receive.

After moving to the new scenario, half the students will already have turned 17 years when they start their final year. Approximately half will turn 18 years during their final year of schooling. That being the case, not only will more students be entitled to a driver's licence, but also close to half the students in the cohort will be legally able to drink alcohol. The whole nature of the upper school will be changed unless we put in train changes to other things, such as drivers' licences and the legal drinking age. That will impact directly on the whole functioning of the school. This means we must look to other changes in the structure. The Minister has jumped at middle schools. I do not want to put down middle schools because they have some advantages, but my concern is that middle schools are simply being plucked off the shelf as a solution to a range of problems which the Minister's decision is creating. I am happy to take the Minister's interjection on which aspect I have wrong.

Mr Barnett: The simple fact is that if you take year 1, a child will either be six or become six in the first half of the year, not six and a half or anything else.

Mr KOBELKE: Currently they do not have to turn six until the second half of the year.

Mr Barnett: They would be in the following year.

Mr KOBELKE: That is right. It is a six month delay on the current position.

Mr Barnett: I think you are misinterpreting it.

Mr KOBELKE: It is very difficult to make sure that people are on the same wavelength because of the different terminology used. It is very easy to become confused. I hope I have set it out clearly because I certainly do not want to confuse people.

At the end of the day the rearrangement of the system will open up a range of stresses and strains in various parts of the structure. Western Australia may end up with a better system. I am not saying that the proposed system is bad. The way it has been managed and proposed has not put us on the best possible footing for addressing the tensions that will be caused in the system. I was commenting on the use of middle schools as a way of solving the problem.

Mr Barnett: There are all sorts of debates and seminars about middle schools but that is the first time I have heard that bizarre notion.

Mr KOBELKE: What bizarre notion?

Mr Barnett: That middle schools are formed to cater for the adjustment in entry age. That is incredible. You must have a unique mind because no-one else has thought of it.

Mr KOBELKE: It is just commonsense. Perhaps I know more about education than the Minister.

Mr Barnett: You may do but you are the only person who thinks that way.

Mr KOBELKE: People have seen this in other States. Tasmania has formed senior colleges, if that is the right title. People of 16, 17 and 18 years are young adults and quite mature people who are able to drink and drive. They create a totally different social atmosphere. The approach used in Tasmania is to put them into senior or matriculation colleges. I have heard good and bad reports about that. The Minister's idea of middle schools may be driven by a whole range of reasons, but it seems that the Minister picked up the middle school idea only after I raised in debate the very real problems that he would have with an eight year primary and five year secondary education system. It is simply not sustainable. Ballajura college has moved year 7 into the high school.

Mr Barnett: That is a different point.

Mr KOBELKE: Year 7 primary school students are starting not to get full advantage out of the curriculum. They are ready to move on. That high school curriculum is seen as being advantageous to them. There are some educational arguments for that. The Minister suddenly jumped onto the middle school bandwagon when I pointed out that he could not have eight years of primary and five years of secondary education. Our current curriculum does not allow for it because there is not enough work in the primary curriculum to enable it to go for eight years. Students must be into full time language programs, science programs, heavier mathematics programs and other subjects because they are getting to the age when they are mature enough to handle a lot of the more abstract concepts involved in those subjects. It is appropriate to move them on. On the practicalities of how to do it, members will have seen with the Ballajura college a whole new school to try to deal with it. I will not go into them now, but there are some advantages and some very big problems with that trial project.

The Education Department must rearrange the physical structure of its schools to provide the number of classrooms and places in those groupings. The cost of that could run into hundreds of millions of dollars. That does not have to be met in one year but it is a huge expenditure on education simply to reshuffle the classrooms. The question has not been answered as to whether there is any real educational gain from such a major change to the structure of our schooling system. There may be but the debate has not been entered into and the answers have not been provided. It is simply trying to patch together the changes that need to be made because of going through this major reorientation of the school entry age and the way various years will be structured.

It comes back to my remarks about aims and objectives. Educational goals and values are not driving the changes to the school starting age. The motivation has been other administrative matters, and we must make the system work. That is not a basis for good educational planning. That is clearly reflected in clauses 5, 6 and 7 which rearrange the school starting age and the ages at which students progress through the school system.

The next point on which I have a different perspective from that of the Minister relates to school size. This is caught up in some aspects with the changes to the school starting age and structure. The move to close schools and to establish larger classes was established when Hon Norman Moore was Minister for Education. The current Minister has picked up and continued the program under different names and policies, and with a slightly different approach. Underlying all that, it is a very similar policy.

Mr Barnett: I have here an old press clipping which states that 75 schools are listed to close, and features a photograph of the member, Dr Geoff Gallop!

Mr KOBELKE: Schools have always been closed.

Mr Barnett: So, Hon Norman Moore did not start closing schools!

Mr KOBELKE: No. He increased the size of schools. If a school is too small to provide the standard of education that we think is required, that is one issue. The approach by Hon Norman Moore - which this Minister has followed - was that money could be made by closing schools.

Mr Barnett: You should talk to the Leader of the Opposition!

Mr KOBELKE: When Hon Norman Moore was Minister for Education he placed in documents -

Mr Shave: When I represented Willagee, the Labor Party was trying to close Willagee Primary School so that all the children would go to Karawara - and that was for economic reasons. That was a Government closing one small school and increasing the numbers at another school -

Mr KOBELKE: That is the Minister's judgment.

Mr Shave: It is a fact.

Mr Barnett: The Leader of the Opposition closed Carmel school without consultation.

Mr KOBELKE: In the years that Labor was in government we were always driven by seeking to improve educational outcomes; it was not about cost savings. In his documents, Hon Norman Moore alluded to the fact that there were many hundreds of empty classrooms; that somehow, empty classrooms were a burden and a cost, and had to be eliminated from the system. That is total nonsense. If schools are built in an area with a certain population, and the population falls away, that is a resource to be used. In all cases that I know about - there may be others that do not fit the category - schools make good use of empty classrooms as special maths or arts rooms, which adds to the quality of the school.

By way of interjection the Minister said that there was an added cost. That is true, but in most cases the added cost of maintaining extra classrooms would be minimal. As an example, Nollamara Primary School is a huge school with two buildings. One site was closed and used for other education related purposes. It is no longer part of the school but, in many cases, the additional one to four spare classrooms can be used very well to enhance education at the school, and the added cost of maintenance is not huge.

However, Hon Norman Moore did not like empty classrooms. As part of that policy shift, which was released through an Auditor General's report, not by a statement by the Minister or the department, the size by which new schools would be planned would be increased dramatically. The schools would move up to a much larger size, with high schools going to around 1 800 students as a design specification. The previous specification was around 1 200 students. That meant that the schools would take between 1 300 and 1 500 students at a peak, and would drop to the 1 000 mark; but they were designed to take between 1 000 and 1 200 students.

The shift under this Government is to move to larger schools and to close schools in older areas in order to make larger schools.

Mr Barnett: Do you support yesterday's announcements?

Mr KOBELKE: I have not looked at them closely. That is no longer my portfolio responsibility; it is not in my area, so I am not conversant with the details in the local areas.

This Government saw a way to save money by making schools larger - by building larger schools in new areas and closing schools in old areas and shifting students to larger centres. There is no educational justification for that. No sound body of opinion in educational research indicates that larger schools are more efficient. One report states that there were efficiencies of scale, in having schools of more than 20; once the school population is more than 20 it is hard economically to show advantages due to economies of scale. Probably it could be higher than that to achieve an economy of scale, but that was one educational report.

The overwhelming literature from various reviews indicates there are no economies of scale when a school moves from 200 to 400 students, or a high school from 600 to 800 students. No overall cost saving is made. What we may make up for in the reduction of teachers' costs, we must spend on student support services to maintain the same quality of education. This Government will not put money into student support services. It is taking it out, so we will have a drop in the quality of education.

As was indicated during the estimates committee debates, this Government is driven by saving money through a different structure of schooling which, on average, has large schools. The economic saving comes about because a school has a staffing formula and, under that formula, runs classes of an average size, but within a limit on maximum class size. To change the maximum class size would be politically unacceptable. If we aggregate students into larger schools, the average class size would increase. To run that across the whole system with 16 000 teachers, we can reduce by a percentage the number of teachers required.

There is an ongoing saving to the direct budget by employing fewer teachers, and that is the argument that the Minister has bought. However, it takes no account of the additional costs that can be picked up in larger schools. In some cases, the costs are transferred, and the Government is happy to do that. Parents will pay more and will transport the students further. In that way the costs are transferred from education by making other people pay. There is no net saving but the Government saves. In other ways, the Government does not save because if we do not have student services and student care and nurturing, we will have many more problems in the juvenile justice system.

MS McHALE (Thornlie) [3.38 pm]: I will confine my remarks to a few minutes and highlight a couple of critical issues which I consider worthy of putting on the public record. This is and has been a very critical Bill, for at least two reasons - first, intrinsically, because of the importance of education in our community, for the economic viability

of our community, for the social wellbeing, and for empowering, through education, the disadvantaged groups. It is also critical because it has been a revamp and a complete overhaul of a very old Act which has perhaps served the community reasonably well but was in need of the overhaul that it has received.

The Bill sets an administrative framework for education in Western Australia. The Opposition indicated that in its view, this Bill has a number of deficiencies. We canvassed these and attempted to amend the Bill to improve the quality of the Bill. The Government declined to accept the majority of our amendments. As an administrative framework, the Bill -

Mr Barnett: Do you think there is some criterion in this place that the majority of amendments proposed by the Opposition will be accepted? It is very rare for Oppositions to get amendments accepted. I effectively accepted some 29 amendments moved by the Opposition in this debate. The member has not been here long, but it is very unusual for a Minister to agree to significant amendments moved by an Opposition and I have done that. The member should be a bit gracious and have a bit more perspective about the nature of debate and agreement in this House.

Ms McHALE: I am heartened to hear that. I made that comment on the basis that the number was much less than that.

Mr Ripper: The Minister includes government amendments which he believes encompass -

Ms McHALE: I do not include government amendments.

Mr Barnett: The member did not hesitate long enough to listen to what her colleague was saying. A number of these amendments were amendments we drafted and reflected suggestions raised by the Opposition, which we put in.

Ms McHALE: Therefore the Minister is saying they are opposition amendments.

Mr Barnett: Yes, they are.

Mr Ripper: Listen to the Minister's response.

Ms McHALE: No, I do not take guidance from him.

Mr Ripper: I must say I am surprised that the Minister has reached the figure of 29, but I am prepared to listen to his response.

Ms McHALE: We will count them later.

Mr Barnett: It is a big triumph for the Opposition! Members do not acknowledge the member for Belmont's achievements.

Ms McHALE: The point is that we tried to work genuinely with the Government to improve the Bill. That is the process of debate in this House. The Government can refuse to accept our amendments either on the ground that they are opposition amendments and the Government does not wish to accept them, or they will clutter the Bill unnecessarily. Our view was that the Opposition's amendments added to the value of the Bill. Notwithstanding that, we have gone through that process and the Bill has been amended in a number of places.

During the debate, we asked questions about what the Bill will do about issues such as the educational needs of Aboriginal children and what it will do to deal with retention rates. In my speech in the second reading debate, I raised concerns about managing the needs of children with disabilities and about penalties for school non-attendance which the Opposition felt were very heavily punitive in nature. The Opposition also raised concerns about the increase in fees, which I will not canvass in this speech. Whilst supporting the Bill and welcoming the revamping of it, serious concerns have been raised on behalf of the stakeholders in the educational field, and we obviously believe that was a very legitimate process that we followed. It is a significant Bill. Many hours were spent debating it in Committee. I believe that these hours were spent necessarily to canvass the views and concerns of the stakeholders. A quality education and a sensitive education are in my view the key to society's future. Education is a fundamental social institution. I care about the quality of education for the children in my electorate. I will be keeping a very watchful eye on the impact of this Bill on the parents, the teachers and students, so that I can come back to this House, if necessary, with their views to indicate whether the initiatives such as the increased penalties and the increased fees have a negative or positive impact on the educational outcomes of the students in my electorate.

I do not wish to make any more comments on this Bill except, like my colleagues, to acknowledge the work of the advisers to the Minister, and the Minister for providing the advice. It enhances the work of this Parliament when we can work - perhaps not cooperatively; it is not the nature of politics - to improve legislation. If that happens, then we have fulfilled our parliamentary obligations.

MR BROWN (Bassendean) [3.46 pm]: I also wish to confine my remarks to two issues, the first of which is school fees. I will not raise the arguments again that we had in the Committee stages, but I raise it as a very significant concern, particularly for people in my electorate.

Mr Barnett: Can I suggest to the member that, although he is taking what might be a popular position, he should talk to the PCAs during the break about their views of what the collection of schools charges should be. Ask them what is the right thing for their schools. I think he will get some mixed answers.

Mr BROWN: I spoke to the parents and citizens' associations in my area and one particular group has been at pains to raise with me concerns about parents having the capacity to pay because they are leaders of the PCA in their school. They want things for their school and for the education of their children, but they know the difficulties of parents in the area in being able to afford the things they want for their children. Sometimes a situation may arise whereby the PCA may decide on one thing for the school and some parents outside of the PCA may have a different view. The people who approached me and have been most vocal about this are the people intimately involved in the PCA - the PCA president and secretary because they are the people who look at it from both perspectives and are actively involved in the school. They are also aware of the requirements of the school. However, other parents are activists in the local community. They feel strongly about the concerns of parents who have difficulty meeting the fees. I do not raise it -

Mr Barnett: Why does the member not put the position to them honestly, which was the public position of the Government back in April? If the collection of school charges is made compulsory, the level of charge will be subject to a maximum, but set by the school council, and associated with that will be an assistance scheme similar to the secondary school scheme for low income families, which may extend not only to school charges, but also to clothing allowances. The member might find the poorer members of the school community will be substantially better off under what I propose. Do not prejudge it on the simplistic notion that charges should be voluntary. The member may be denying many of his constituents government assistance.

Mr BROWN: We will see if that materialises. I will be very pleased if it does.

Mr Barnett: It was announced in April.

Mr BROWN: It has not materialised yet.

Mr Barnett: Because we have not got the Bill through and because the Opposition is opposing the structure that allows that to go to low income families.

Mr BROWN: We will see whether it materialises and see what comes back, but I want to make this point: Many parents have told me that already they have difficulty meeting their obligations in relation to school fees and charges. This is not a matter about which I am seeking to raise the concerns of the local community; rather, members of the local community have come to me through parents and citizens' associations to say that already parents are finding it difficult to meet the costs that are requested to ensure their children can fully participate in the school and its activities. That is without the increase that is foreshadowed by this Bill.

Mr MacLean: This is not an increase.

Mr BROWN: It will increase from $9 to $60.

Mr MacLean: The member for Bassendean does not understand that it is an amount up to $60, which the school raises now. The $9 charge is compulsory. As a parent I know that the school raises other fees - swimming pool charges, bus fares, and excursion fees. They are outside the $9 charge, but will be part of the $60 charge. The principal will have considerable discretion and a program will be put in place for those people who are unable to pay.

Mr BROWN: My job is to represent the concerns of my constituents. I am echoing those concerns that have been raised with me. I take that responsibility to my constituents seriously. This is not something that I thought of; they have raised this with me. It is my obligation as their representative to raise it with the Minister. The Minister and the member for Wanneroo say they will be better off. We must test that out and see. I will not sit mute in this place when those concerns have been raised with me. That would not be discharging my responsibility. I want this on the record because, if it does not work as it is alleged that it will work, I cannot be accused of not raising these concerns. I want the *Hansard* to show that while we were discussing this Bill I raised these concerns. That is not for the purpose of coming back and saying, "I told you so"; it is my job to raise those concerns that are raised with me. This issue was raised on a number of occasions, even to the point of taking up a petition. It is a serious issue and there is no joy for many parents who find it difficult to pay the school charges.

I appreciate that there may be some circumstances in which parents have an argument with the school over a matter and may not want to pay a particular charge. However, for many parents it is not a matter of having the money and

not wanting to pay; they do not have that discretionary money available to them. I represent electors with a variety of incomes. In some areas of my electorate people on modest incomes find these charges and costs considerable. They feel that deeply as parents, because when they cannot meet those charges their children are denied opportunities to participate in school activities. Most parents whether they are on high, medium or low incomes do not want to see their financial position having a deleterious effect on their child's opportunities and participation in the education system. I put that on record because it is a most important issue and something that is felt deeply by a number of parents in my electorate.

The issue of local area intake was not resolved during Committee. I raised concerns in that debate about whether the end result will be that schools are unable to cope with student numbers, particularly if a school is known as a good school and is attracting out of area students. I also raised the matter of what is occurring in some older and more established areas in which student numbers are expanding and how the local area intake arrangements will potentially impact on those schools. The Bassendean Primary School is in the centre of Bassendean, which is a well established area. Bassendean has been undergoing some transformation and a lot of redevelopment is taking place. Although there is an older generation in that area we are also seeing a younger generation with young children and that demography is increasing. As a consequence of that student numbers in this well established school are rising.

I am advised by the parents and citizens' association that the school expects an additional 35 new enrolments before the end of 1999. One may not consider that to be a huge number, but the school is already struggling to cope with its existing facilities. I received correspondence recently about the urgent need at the school for a dedicated staff room, an additional utility room and classroom. A number of reasons were given including a lack of space. No specific rooms are currently available for interviews, sick children, specialist visitors, including the psychologist and nurse, specialist teachers, or small work groups that operate at the school. At present the deputy principal's office is also a store room, a photocopy headquarters, school psychologist's room, LOTE teacher's room and interview room. Currently the sick room is being used for sick children, the physical education specialist, parent and teacher interviews, parent and nurse interviews, and for detention. It is also the physical education store room. The staff room/classroom is used by teachers and teachers' aides in the preparation of room work, for parent meetings, small group work, class cooking activities, individual children, special programs and just about everything else that has nowhere else to go. The corridor, which is not an ideal teaching environment, is used for room 4's wet area for painting and craft, group banks of computer activities when possible, group reading and maths activities and for storage.

The school still has a couple of a demountables, which have been at the school for some considerable time, and which have no shelter. The rooms must be locked at the recess and lunch breaks for security reasons. Various other problems with staff accommodation and facilities also exist. All those matters are of concern, especially when one considers the changes being promoted in this Bill.

I raise that issues in this debate in the hope that the Minister will examine the needs of the Bassendean Primary School. I hope the Minister's advisers who are in the Speaker's Gallery - they have been in the Chamber for a number of days - are diligently taking copious notes about this matter. I will take it up with the Minister to ensure that the Bassendean Primary School is provided with the facilities needed. The Minister makes many pronouncements about new schools and school additions, which are all very nice. What is the magic formula for having additions and facilities provided?

In my electorate we have battled hard to obtain some improvements to Hillcrest Primary School. It was not an easy task. Finally, some matters are being addressed. I hope they will be addressed towards the end of the year. Although the Minister was invited out to the school, he chose not to attend.

Mr Barnett: I have been to Hillcrest primary - a couple of times actually. I will check, but I am sure I have.

Mr BROWN: The Minister did not attend when the parents and citizens' association invited him.

Mr Barnett: It must have been because I could not make it. I am happy to go to Hillcrest. I am almost certain I have been to Hillcrest in the past.

Mr BROWN: Maybe the Minister could check that and let me know the dates. The P & C association did not know about it. Normally, when Ministers visit schools, they see the principal, the P & C association and the teaching staff.

Mr Barnett: Not always the P & C; it depends on the time of the day. Certainly, the principal would be seen.

Mr BROWN: I am interested to discover when the Minister visited the school.

Mr Barnett: I am prepared to stand corrected if I am wrong.

Mr BROWN: I will convey that information to the school because some matters have been raised with the Education

Department, partly through the director general and partly through the Minister. Some of those issues have been attended to, and will be resolved shortly. Equally, I hope notes have been taken about concerns for Bassendean Primary School and the facilities needed to provide a quality education for children in that suburb. As I have addressed only two matters, I hope the points raised will be given proper attention, particularly the matter of facilities at the Bassendean Primary School.

MR GRAHAM (Pilbara) [4.05 pm]: I gave a speech in the second reading debate on this Bill which addressed some major issues which the Minister should attend to in my electorate. I want to place on the record some nice comments about the Minister.

Mr Barnett: If you say it early then you can get on with the main theme of your speech!

Mr GRAHAM: I am not going to get into the Minister at all. I sent my speech in the second reading debate to the Minister and he responded to it very quickly. I am happy to say that I circulated my speech and his response to all the schools in my electorate.

Mr Brown: That is a worry.

Mr Barnett: It is a worry now!

Mr GRAHAM: I circulated my speech and the Minister's answer. Even though the Minister was not able to deal with all the matters raised, he addressed each item raised. I thank the Minister for that. I encourage more Ministers to do the same, as it is helpful to me, to the Minister and to the schools in my electorate.

First, school buses are becoming an issue again, particularly in country areas. The 4.5 kilometre rule says that people inside that area are not entitled to be subsidised or have free bus trips. I have made it clear over the years that this is a stupid rule, particularly for country Western Australia. There is no rhyme or reason for it. It effectively means that no child in South Hedland is entitled to subsidised buses. The fares were introduced by this Government. To be fair, the previous Labor Government tried to introduce them, but I opposed that move and the notion was shelved. With the change of Government, the fares were introduced. We opposed it again, but failed. Unfortunately, the then Minister, Hon Norman Moore, chose to introduce the fees and ignore local concerns.

The problems caused in Port Hedland by that initiative are exactly as we suggested they would be. All the issues we outlined as arising from introducing that scheme have come to pass. The underlying premise behind the introduction of school bus fees was that country children should not receive a benefit not available to city children. However, as I said at the time, city children can pay the school concession fare and travel all day on the rail or bus system throughout Perth. That option has never been available to children in the country - never has been, and I suggest never will be. Most country towns in this State do not have a public transport system.

I raise with the Minister two further specific issues regarding school bus fares. Following the very good merger of the Cook Point and Port Hedland primary schools, the school bus fares issue has arisen again. The children who previously attended the Port Hedland Primary School at the old location now attend the new school, and some require bus transport. The question remains: Should they pay fares? My argument is that they should not pay bus fares. Again, I will send a copy of my speech to the Minister, and see whether we can elicit a response from him and/or the Department of Transport and/or the current review taking place on this subject.

Another issue involving school buses was outlined in a letter I received today from Mr and Mrs Pondaag, who have written to me about children attending Catholic schools in Port Hedland being able to use the school buses at the subsidised rate. Again, I will send this speech to the Minister for an answer. It seems from what Mr and Mrs Pondaag say, for some reason, children living in South Hedland travelling to a Catholic school in Port Hedland are not entitled to subsidised bus fares. That is a mistake. Children travelling from Port Hedland to South Hedland to attend school are entitled to the subsidy. The reverse should also be true, even if they go to a private school. I see no reason to discriminate against a Catholic school in a place like Port Hedland. Both public and state schools provide education and are open to the citizens of the town. I will see how the Minister responds to that point.

In my speech in the second reading debate I referred to the application of technologies in schools and universities. The Minister accepted my point. I do not want a head-on with him about who is right or wrong about certain aspects, as we both agree that such technology represents the education system of the future.

It was interesting that upon circulating my speech, a chap forwarded me an email he received from Scotland which outlined what is happening in that country.

This email reads -

> A £7m deal was signed yesterday to allow students at the proposed University of the Highlands and Islands to be taught at dispersed classrooms using the latest technology.

> Scottish Telecom . . . will set up the network which will provide voice, data and video links connecting the university's 13 partner institutions and more than 20 sites across the area.

The email goes on to refer to Professor Duffield whom it quotes. It reads -

> The advances would help the UHI overcome the "tyranny of space" and provide educational opportunities for people in remoter areas.
>
> Rather than students being attracted to universities, this technology could bring the university to the students.

It is a dispersed campus system and it is linked using internal telephones in one series of buildings and people are linked up by the phone system using computer and video screens, in addition to the normal teaching devices.

It is a moderate level of technology; more advanced technology is now available. It is part of a £35m Scottish Telecom project aimed at expanding university, secondary and tertiary education into the highlands and the remoter areas of Scotland. It begs the question of why those things do not occur in Western Australia at the rate that they appear to be occurring in other places. I grant that the ministry is examining it and looking at pilot projects.

The time for pilot projects has passed. An ability exists to introduce these sorts of systems into the education system post haste - get them in, get them up and get them operating. We have the ability to deliver an extraordinary leap forward in education to those people in the remote areas of Western Australia. I agree that the new school in Port Hedland is equipped to do it. However, currently there is nothing with which to do it. Projects are emerging and developing in language training, etc, but they are in their infancy only. We need to move forward.

A copy of my contribution to the second reading debate and the Minister's response was sent to all the schools in my electorate. Members know that not only do I have the State's biggest electorate but also a large amount of the remote desert areas in Western Australia, which includes some extraordinarily isolated Aboriginal communities. That was one of the points of my speech.

I was very happy to receive a response from the Rawa Community School in Punmu about my speech and the Minister's contribution to it. That is an independent Aboriginal school, not an Education Department of Western Australia school. All the issues that had been raised and addressed regarding the remote areas packages put together for the Education Department and the difficulty in attracting teachers into the bush were raised by Mr McLennan of Rawa. He cannot come close to offering his teachers the facilities, salary and allowance package that the Education Department can offer its teachers, notwithstanding that teachers think the education package is not sufficient to attract people to those areas for long enough to make a meaningful difference to the education of the children in those areas.

Mr McLennan operates at a much lower level than the Education Department does currently. It was a source of surprise to me to find at the top of the page on his letter that he has email and web site addresses. I logged onto the Internet and pulled up the home page for the Rawa Community School at Punmu. It is a fascinating exercise and I recommend it to members if they happen to be surfing the Internet. It is www.users.bigpond.com/Rawa. I suggest that members hop on to the Internet and have a talk to some kids in a remote school. Its home page says -

> Located deep in the very heart of Western Australia, we've created this site to let you know that us desert nomads have technology too. We just have to hire people from the coast to work it. Rawa Community School Aboriginal Corporation is an Independent Aboriginal School situated within the Punmu Community, located in the Ruddall River National Park. The Great Sandy Desert is our suburb, and our nearest shop is a two hour flight away. This site was developed to allow those interested to get a taste for the heart of Australia, the real outback.

It is a big web site and it is fascinating to go through the education program for these children in this school. Members should bear in mind that it is a community school and the Aboriginal people sit on the school board and determine to a large degree how things are taught. They do not have all the say in what is taught; however, they have a large say in how it is taught. It is fascinating to go through the different pages on the web site that deal with education, achievements and the interaction with the wider community.

I will read one part into the record because it is a great exercise for members to understand what it is that these kids are confronted with. Under the heading "Kids' Education" it reads -

> Rawa community school has a unique purpose, as it must prepare Martu students to enter into the larger-scale economically-driven worldly community (if they choose), and also keep Martu culture and language alive. Two-way learning is paramount, and the European and Martu staff work together to benefit the students. The students must be taught mathematics, english and social sciences. However, due to the remote location of the school, students must also be taught extra items, such as general transport rules (ie

> purchasing train tickets, road rules, bus regulations), ordering food in restaurants, and the 'rules of the cities' (ie how to cope with advertising and manipulation). These concepts become more intense and more in-depth as a student's school life progresses. The Martu's native language, Manyjiljarra, is also a very strong focal point in the education of the students; with simple word associations in primary years leading to reading and writing skills in latter years.

I have actually been to the school. It is a big school by the standard of desert communities. It goes through to high school. It continues -

> The remote location of Rawa School makes some concepts difficult to teach.

I ask members to understand that some of these children have never seen a bitumen road or may never have seen a multistorey building, a traffic light or traffic. Members can imagine teaching these children concepts. I have been to some of these schools and I have been quizzed about our system of government. It is a difficult job. It continues -

> This is why resources such as computers, videos and books are invaluable, as they give images and sounds that cannot be experienced by those living here. It is hoped, however, that by the end of their school life, the young adults that emerge will be able to not only survive, but thrive, in an industrial society outside of their own camp, if they so desire.

It is a great tribute to those kids in that community that they can put this together. A policy statement from the school, which I will not read, has 15 points and is a model for any school to adopt as its policy statement. There are things in that statement that are uniquely Aboriginal - and uniquely desert Aboriginal - about keeping the culture and language strong.

The web site reads -

> Teach our children to speak, read and write English.

By the time these children start school, which may be at kindergarten or preschool, they speak two or three languages and five or six dialects within those languages. They are multilingual children. It is common in the desert for children to have those language skills. Unfortunately none of their languages happens to be English. Outside these independent schools we insist on teaching these children in English. That begs two questions: First, whether the schools are entitled to access English as a second language funds and, if not, why not? Second, if they are entitled to do so, and I argue that they should be, what efforts are put in by the State to ensure that the schools are aware of that? That sort of funding to a school like this could be a major boost.

Funding for the Rawa Community School is rather low. In addition to teaching children, which is its responsibility, it says this on its web site -

> The school also creates learning potential for the adults, offering afternoon sessions for people wishing to increase their own education. Everything ranging from computer training to mathematical abilities to teaching skills is offered in these afternoon classes, which can lead to enrolments in distance education courses. Our most recent example is the head of the school board, Mr Bruce Thomas, who is nearing completion of a translation certificate.
>
> Although the Martu have hired White fellas to assist in the education of their children, it must be stressed to people that the Martu always have the final say in matters; They are, of course, the white fellas employers. The school board consists only of Martu workers, and thus all end decisions land in their hands, and they have to vote on matters. This is a very important principle to note . . .

In addition to normal school education the school organises education for adults. That begs another couple of questions which need to be dealt with. What assistance is available for these people to do their distance learning education out in the desert? By assistance I do not mean cash grants for people going to school but computers, satellite time, computer time and so on. I spoke of the new university in Scotland. Other places in the world are doing these things as a matter of course to enable people who live outside the major centres of their countries to educate and advance themselves. I look forward to our doing the same.

MR BARNETT (Cottesloe - Minister for Education) [4.25 pm]: I thank members for their contributions to this debate and the passage of the School Education Bill. This has been a long debate through all stages which has taken over 45 hours. Forty-two amendments have been made to the legislation during its passage: Eleven were simply editorial; eight were moved by the Opposition; a further 21 amendments, although they were moved by the Government, reflected issues raised by the Opposition; and another two amendments resulted from some changes to the low interest loan scheme. It has been a long debate.

This is an important piece of legislation. It replaces the existing Education Act which is now 70 years old. I stress to members that this legislation has had a long period of consultation even prior to this debate. The team drafting the new Education Act began its task in 1994. We reached the stage in June of last year of tabling a Green Bill. The development of that Green Bill had entailed a long and extensive consultative process involving all the major players in the education sector. Once the Green Bill was tabled and put out for public consultation, there were 31 meetings with parent and community groups at 16 different sites throughout the State, attended by around 1 200 persons in total. We also circulated 14 000 copies of a plain English version of the Bill and 6 000 copies of the Green Bill itself. Some 322 submissions were received on the Bill. Over 700 hits were made to the web site that was established. Therefore there has been a very thorough and extensive consultation process.

Although not all groups agree on all aspects of the Bill, I argue that this is a community developed piece of legislation. Enormous changes have been made to reflect suggestions and points raised during the various consultation phases. In that sense I have some wariness about the contemplation of further significant changes to this legislation. It may well be that the Opposition might talk about what it will do in the upper House. It is up to any House to comment and accept its parliamentary responsibility. To launch into major policy changes in this legislation will largely go contrary to a very long and extensive public process in which there has been very broad agreement on the Bill. It may be opportunistic of the Opposition to say that it will change something but it does so with some risk, because large numbers of people in the community have gone through the Bill, helped to develop it and have agreed to it. The Deputy Leader of the Opposition will understand the significance of what I am saying.

Mr Graham: Every Labor Government in history has had to put up with the Liberal upper House doing that to it.

Mr BARNETT: Yes. I also indicated at the beginning of the debate that I would not use time management on the Bill. That was appropriate. Although it has been a long debate, we have progressed through it. Probably the majority of the clauses have been subject to debate. The Deputy Leader of the Opposition has worked particularly hard and very constructively to make his contribution towards this legislation.

There is a timing issue in respect of the passage of the Bill. The Government wants to have this Bill ready for the 1999 school year. Some 1 100 government and non-government schools are planning next year's school year on the basis that this legislation will be in place. An enormous task that lies in front of the Government's project team is drafting the regulations that will go with this legislation. We are looking forward to this Bill passing through its parliamentary process, so drafting those regulations can proceed. Indeed, we have been asked to make those regulations available for public consultation. We might be able to draft some of the regulations but we cannot start a public consultative process until the Bill is finalised and the regulations completed. Timing is important in that regard.

Some specific issues were raised during the third reading debate. I do not really want to go through them again. The issue of school boundaries was raised. I urge members opposite to think very carefully about that. It is fundamental in this legislation to provide choice between government and non-government education and also to allow choice within the government sector. I argue very strongly that the removal of restrictive boundaries will allow individual government schools to develop their own style, programs and identity. The time is right for that sort of development in our school system. It is happening around the world and it is to be encouraged.

School charges have attracted a great deal of attention, as they should. There has always been controversy in schools about the collection of fees and charges. One of our historical problems in schools is that this has never been defined. This Bill very clearly defines the items parents can be charged for and these will be further defined in the regulations. They cover consumable goods and services, such as art supplies, computer paper and perhaps computer discs; the cost of or contributions to transport and the like. All these matters will be defined and clearly laid down. The Bill also implies a maximum level of charges will be determined by the Government and by regulation. I have suggested for primary schools that it might be $60.

The setting of the charge will be a matter for the school council. It would be very easy to say that there should be no compulsion on school charges, but we would need to tell school principals and councils that we will give them no power to collect charges from parents who can afford to pay. Inevitably, we would have the worst of all outcomes: School principals and councils would use other techniques to collect the charge, such as placing restrictions on the activities of children, or delaying giving results to parents; and that would impact on the child. We say that everyone who can pay will pay a school charge. It will be a compulsory charge, and there will be no impact or reflection on the individual child. That is much fairer.

Another aspect about which members must be careful is that if school charges are compulsory, it will be fair because everyone who can afford to pay will pay. That will also allow the Government to bring in a form of assistance similar to the secondary assistance program, which can be targeted specifically at the families most in need. That could extend not only to the cost of school charges but also to uniform allowances, and the like. If members take the easy

road and say that they oppose school charges - which would be popular, in the first instance - it will cause secondary methods of collection which will invariably impact on the individual child and will deny the ability of the Government to establish an assistance scheme to target those in most need.

Members will have to explain why their constituents do not receive financial assistance; and it will be because there is no ability for compulsion. We cannot have one without the other. Members will have to explain to school principals and councils that members supported a policy that took away councils' power to recover money from parents who can pay but simply choose not to. They will also have to explain to the majority of parents who do the right thing and pay the charges, why other parents are not required to do the right thing. Members should think very carefully before they take what might seem to be a very simplistic approach to the issue.

Other issues were raised during debate. I will not delay the House by commenting on all of them. There was some debate about school closures, and the like. Having yesterday announced a major reorganisation of secondary education in this State, I found it curious that the Opposition chose not to ask a single question in that regard during question time. It is extraordinary.

One of my staff drew to my attention a newspaper article. We are supposed to be the Government which is closing schools. The article is headed "75 schools listed to close: ministry", and includes a photograph of Dr Geoff Gallop, the Minister of the day. One needs to have a sense of perspective about history. We have closed schools, but we have opened many more. There has been an additional $88m expenditure on secondary education in this State. Members should look seriously at some of the issues and not respond in a short-term, simplistic way.

Mr Shave: When that article appeared in the newspaper, there was no suggestion of opening new, high-tech schools.

Ms MacTiernan: Many schools were built during our day!

Mr BARNETT: Members opposite neglected schools badly, particularly their maintenance programs. We are still catching up on the $26m-worth of neglected maintenance during the Labor years.

The DEPUTY SPEAKER: Order! This is a third reading debate.

Mr BARNETT: Other issues were canvassed fairly widely. The member for Nollamara talked about changes to the school entry age. His point has some validity. I think he had some confusion in his mind about how that change would apply. However, from 2001, the first group of slightly older children will enter the kindergarten program, and will progressively go through the school system. That will have implications for the boundary between primary school, middle school and senior school. The member is probably right. It has been well understood in education that progressively we would expect to see year 7 children become part of the middle school. That will require extra expenditure and the reorganisation of schools, such as was done yesterday. We are fortunate in this State, in that at least we have a growing education system. The changes that were easy to make yesterday were those in the Mandurah-Peel area whereby, responding to a growth in student population, we will immediately set up the three middle schools and one senior college. It will be relatively easy, as that age group comes through, if we decide to put year 7 children in the middle school. That decision does not need to be made now. It will be around 2008 before that cohort of children reaches the middle school stage. Some time between now and then decisions will be made about the appropriate mix. That decision must be made carefully and on educational grounds. There is a good argument for year 7 students to be at the middle school, and that is probably what will happen.

Ms MacTiernan: Even some of us on this side think that is an issue to be explored.

Mr BARNETT: Good.

I thank members opposite for their contributions. I am pleased that the Bill has now finished its passage through this House. I hope it will receive reasonably quick treatment in the other House. There is talk about setting up a committee. It is perfectly fine for the upper House to set up a committee, but I hope it will be a committee that looks at the detail of the clauses of the Bill, in the way we undertook in this House. I would be concerned if an upper House committee is established and starts a public consultative process. That would be unnecessary, and would be almost offensive to the many hundreds of people who put in submissions and have already taken part in a long and extensive, consultative process. We do not need to reinvent that. We can have debate about the detail and content of the Bill, but no piece of legislation in this State's history has had such a deliberate and wide consultative process.

I conclude by thanking Ken Booth and his staff, and the member for Roleystone who played an important role. I acknowledge Hon Norman Moore who started this process in 1994. I hope that he will enjoy carrying the Bill through the upper House over the coming weeks! I thank all members for their contribution.

Question put and passed.

Bill read a third time and transmitted to the Council.

REAL ESTATE AND BUSINESS AGENTS AMENDMENT BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Shave (Minister for Fair Trading) in charge of the Bill.

The amendments made by the Council were as follows -

No 1.

Clause 6, page 4, after line 20 - To insert the following subsection -

(9b) Sections 27, 28, 29 and 47 apply to the Registrar in the performance of a function under subsection (9) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

No 2.

Clause 9, page 5, line 17 - To insert after the word "may" the following words -

, after a request from the Board,

No 3.

Clause 14, page 11, line 3 - To delete the words "the deposit" and substitute the following words -

any deposit paid within 28 days of the execution of the contract

No 4.

Clause 14, page 11, line 9 - To delete the words "a deposit of".

No 5.

Clause 14, page 11, line 11 - To insert after the word "later" the following words -

, or at any other time as may be prescribed by the regulations

No 6.

New clause 14

Page 10, after line 12 - To insert the following new clause -

Section 60 amended

14. Section 60 (2) (a) of the principal Act is amended after subparagraph (ii) —

(a) by deleting "and"; and

(b) by inserting the following subparagraph -

" (iia) clearly sets out the method by which the amount of any commission, reward or other valuable consideration to be received for those services is to be calculated; and ".

Mr SHAVE: I move -

That the amendments made by the Council be agreed to.

Ms MacTIERNAN: I will not comment on each of these individually. It is a bit unfortunate that the Minister appears to have adopted a practice in which he will not accept any amendments in the Legislative Assembly, but rather waits for amendments to go through to the Legislative Council to be considered. That unduly prolongs the process and ensures that this legislation comes back. I do not say that had he agreed with the amendments that we put in the Assembly the Bill would not be here now, but there would have been a much greater chance of this process being avoided. It is a very narrow view that the Minister takes to debate these matters. I think it is unfortunate.

While most of these amendments will improve the situation slightly, I still think that major problems exist with this legislation in that it does not hit the spot that it is meant to hit. If we look at the amendment to section 60, for example, while that does go some way to improve the requirement of disclosure of commissions that will be charged in a deregulated environment, it does not deal with it extensively and comprehensively in a way I would desire. I could be difficult and move an amendment to the amendment in order to get this point over, but I will not do it. I make this point: In proceeding to deregulation, the Minister will put a great number of people who lack commercial sophistication at risk. He will expect them to negotiate from a position of weakness in which they have no prior experience. While I acknowledge that the real estate market is highly competitive, anyone who is smart and has a few clues and a knowledge of real estate will do very well out of deregulation. I have no doubt about that.

Our concern is for the very significant number of people who buy and sell their homes only once or twice in their lives, who have very little experience in real estate, perhaps because of the work that they do or the education that they have, or who have very little confidence in wheeling and dealing in these areas. They will be the bunnies who will be stuck with, in some instances, vastly inflated commission fees. I know from having spoken to real estate agents in our area that they expect fees at the lower end of the market will increase considerably. In the more affluent suburbs, we will see a diminution in fees, but certainly in areas such as Armadale and Westfield, the expectation is that a bit of a bonanza will be created for the real estate agents in terms of increased fees.

A member interjected.

Ms MacTIERNAN: That is not true and I know the member has argued this. I have quoted from REIWA's own research when it was initially opposed to this. It quoted a number of studies from the eastern States. I am trying to point out - it is a slight sophisticated point; it is one that members on the other side have difficulty understanding across a range of areas - that one cannot look at one segment of the market and take an average and say commission has come down overall. I concede that in areas such as Peppermint Grove, the western suburbs, City Beach, and maybe out at Edgewater, one is likely to find a decrease in the fees, but in areas with low income earners, with low real estate values, the experience is these areas is that fees will increase. If one must talk about averages, one must segment the market and make an intelligent observation based on that segmentation.

Dr EDWARDS: These comments are extremely interesting and I would be happy to have the member for Armadale continue her remarks.

Ms MacTIERNAN: Incidentally I discussed the proposal with a number of board members from REIWA who said they would have no difficulty with it. It is to ensure that when a contract for the payment of commission is entered into, that contract be binding only if the maximum fee payable was inserted in the document. I have endeavoured to explain to the Minister the reason that his proposal will simply not provide a remedy, and that it is optimistic to believe one can devise a provision that states "Thou shalt not charge unjust fees" and have something that is really justiciable. The reality is that it will be quite possible for people to be charged very substantial fees over and above the existing scale without these fees being able to be established as unjust. I cannot see why the Minister could have any difficulty with the concept that the maximum fee payable must be clearly denoted on the contract documentation. It seems to me absolutely fundamental, but for some reason or other which he was unable to explain, the Minister could not contemplate such a position. I also asked the Minister to explain what mechanisms he will put in place to monitor the changes in fees that take place once this deregulation is put in place. He was not able to provide us with any detail of that in the Estimates Committee, other than to say they will monitor it. I hope we now might have an opportunity to hear from the Minister how he proposes to deal with the problem of fee increases or, at least, to ensure that we know what is going on, so that if this misfires we are in a position to finetune the legislation. I look forward to hearing some response from the Minister on these points.

Mr SHAVE: Many of the issues covered and canvassed by the member for Armadale were debated when the Bill went through the House previously. We will not reach agreement on this subject irrespective of the views that I expressed. The member for Armadale has a view; she will not move from that position. I have discussed in some detail during the debate that we will put education programs in place, we will monitor the situation, and we will give the registrar the power to impose penalties, require refunds, or disallow commissions if he believes that things are done in an improper, unreasonable or unfair manner.

That is essentially the basis of the legislation. The Government did not deregulate the fees without this legislation being in place, which is fair and responsible. I thank the member for Armadale and others for their contribution and input into this debate.

Question put and passed; the Council's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Council.

GOVERNMENT RAILWAYS AMENDMENT BILL

Second Reading

Resumed from 29 April.

MS MacTIERNAN (Armadale) [4.52 pm]: The Bill will give Westrail the power to lease nominated lands for a period of up to 99 years, as opposed to the current power of 50 years. The three areas that will be able to be leased for a 99 year period are the air rights over the Joondalup rail reserve, the air rights over the Subiaco redevelopment area and CBH Ltd developments, excluding Forrestfield and Kwinana.

In the first two instances the Government claims that a 50 year lease is insufficient to provide a proper and equitable return on the investment and the superstructure that it is necessary to construct in those areas. The Government states that it has commissioned a number of opinions from valuers that support this view. Unfortunately, the Opposition has not been privy to any of those reports.

It is difficult for the Opposition to make any assessment as to whether the claims are correct. I find it difficult to believe that a lease of 50 years would not provide an adequate return, particularly when one considers the number of builder-owner-operator facilities that are being constructed across Western Australia and around the world in which a 50 year period is considered to be sufficient time in which to gain a return.

I note that the term of ownership for the Oakajee deepwater port is 30 years. That is considered to be an adequate time in which a proponent can recoup its investment. However, in this instance, the Government is saying that a lease of 50 years is not sufficient in order to recover what would be a comparatively modest infrastructure cost. I am not persuaded by the arguments in the absence of the documentation. However, given that it is confined to two areas the Opposition is prepared to let this go through to the keeper, while at the same time raising its concerns.

Westrail has advised that the proposals will not present any redevelopment or refurbishment problems for it as the structures that it has built will last 90 years - that is, bridges over existing rail networks. The rail line in Subiaco has been sunk and the land has been developed in a trench like formation. In Joondalup there is an elevated bridge over a rail cutting. In both instances Westrail claims that these facilities will not require rebuilding or refitting in 99 years. I find that highly optimistic, and I am concerned that such an extensive lease will unduly fetter Westrail's capacity to modify those areas. When one considers the rate of technological change that is occurring, particularly in transport, one would anticipate that in 99 years there would be a complete revolution.

This Bill will make it difficult for Westrail to make modifications to the technology for 99 years because it will not have control of the air rights or the superstructure, although Westrail has said that it is convinced that this will be okay. Westrail is also concerned about alternative proposals to provide freehold titles which would then be strata titled. It states that would be a far greater impediment to their control and that is why they have gone this way. I accept freehold title would be unacceptable. However, it is in the hands of the Government not to grant those titles, so Westrail could hardly use that as justification for the 99 year lease. The Opposition will not oppose the provisions relating to Joondalup and Subiaco but we do raise two areas of concern.

The third classification of property that will be subject to 99 year leases relates to CBH Ltd rural properties. CBH has facilities all over the State and has invested a great deal of money. CBH wanted to buy those areas, which is understandable. Given the low value of most of the land concerned it was considered that the administrative costs of surveying and creating freehold structures would not make that worthwhile. The process of providing titles on this land would outweigh the value of the land. Hence, in those instances, it was determined that a 99 year lease be offered as a substitute. Given that the land is of little value bearing in mind the value of the infrastructure developed by CBH, this is a realistic and reasonable proposal.

The Opposition has no difficulty in supporting CBH land being subject to a 99 year lease. That is an eminently reasonable way around what would otherwise be a costly process of surveying and drawing up individual titles.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.00 pm]: I thank the member for Armadale for her comments and for the Opposition's support of this Bill. The Bill was debated in the Legislative Council and support has been received. I acknowledge the comments made by the member for Armadale on lease arrangements - the 99 year lease compared with a possible freehold lease of land. There is no doubt, as the member mentioned, that it is the fixtures on the land that have great worth, rather than the land itself. On that basis, I am pleased that the Opposition is supporting the legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

CRIMINAL LAW AMENDMENT BILL (No 2)

Second Reading

Resumed from 31 March.

MR McGOWAN (Rockingham) [5.02 pm]: It is with pleasure that I make a few remarks about the Criminal Law Amendment Bill (No 2). The Opposition supports this Bill and acknowledges that it has been divided into two parts which are different from the original Bill which was introduced into the Upper House. Some of the more difficult or contentious areas of the law that were to be debated as part of this Bill have been hived off and are part of the Criminal Law Amendment Bill (No 1). We support this Bill. I hate to say it is a heated debate, but it is very heated over this side at the moment.

Mr Prince: It is because the Whip is all hot and bothered.

Mr McGOWAN: It is very hot over here. This Bill deals with a number of reforms to the criminal law in the areas of sentencing for grievous bodily harm offences, credit card counterfeiting and forgery, reduction in sentences for people who cooperate and give evidence against other people involved in criminal offences, and credit for remand for juveniles who are held prior to sentencing in a criminal law matter. Criminal Law Amendment Bill (No 1) deals with the areas of forensics, stalking and whole of life sentencing. In an overall perspective, the criminal law and especially the areas with which these Bills deal cause great debate in the wider community. If members visit the Rockingham Autumn Centre, as I often do, they will find that the criminal law and sentencing of convicted offenders are the subject of great debate. There is a view that sentences handed out by the courts are too lenient, and a great many of the public do not distinguish between those of us in this place and those in the courts when discussion takes place on the sentences that are imposed. I often explain to people that Parliament sets an upper limit on the sentences that can be imposed by the courts. The penalties imposed by the courts are then the subject of judicial discretion. It is not a subject which is entirely in the domain of the Parliament. However, members must realise that a number of offences have acquired the status of mandatory sentencing; for example, those horrendous murder offences which sometimes result in an offender receiving a whole of life sentence. In that situation, a mandatory sentence is put in place. It is a complex area of sentencing.

The reforms proposed in this Bill are a move in the right direction. Penalties imposed by courts are not the only solution to crime and I would not be surprised if everyone in this Chamber agreed with that sentiment. We must adopt an educative role and ensure that a range of areas is discussed to ensure that crime is reduced. The old slogan of being tough on crime is the right one, but the Labor Party's slogan, before the last election, to be tough on the causes of crime, is also correct. Being tough on one side and not tough on the other does not solve the problem; it is a two pronged process. Crime is very complex and the reasons for crime extend from cultural, societal and physiological issues to family background issues and the like. Addressing crime involves a range of measures, not just sentencing.

We support the sentencing options in this Bill. However, the Government does not attempt to deal with the sentencing imposed by courts. For example, when a sentence is imposed by a court, with parole and remissions, about a third of the actual sentence is served. If a person receives a sentence of three years' imprisonment, in most cases, if eligible for parole, that person will serve one year. That issue has aroused a great deal of hostility among the general public and we must address it. When one must explain to people who may have been victims of crime, or explain to the families of people who may have been victims of crime, that when a sentence is imposed an individual will serve a third of that sentence, they find it difficult to comprehend. It is difficult to comprehend. Sentencing must reflect the initial penalty. People must have an incentive to behave themselves in prison. They must have an incentive to reform themselves, to enable them to be released sooner and to participate in society.

However it is absurd that offenders serve only one-third of the head sentence. We can probably implement a better system to reflect the wishes of Parliament and the judiciary. Although this Bill does not address that, we should closely examine it because the community expectation is that people should serve a greater proportion of their head sentence.

The first issue dealt with by the Bill is grievous bodily harm. The Bill will increase the maximum penalty for the offence from seven to 10 years. From both personal and party perspectives, I support that change. On occasions grievous bodily harm can be just as serious as murder. That might sound strange, but many people regard being rendered comatose or left to live like a vegetable a fate worse than death. Therefore, penalties should reflect that often grievous bodily harm can amount to a heinous crime. The penalty of seven years was insufficient to meet the public's reasonable expectation of a proper sentence. Seven years would probably meet 99 out of 100 offences of grievous bodily harm. However, in one per cent of cases someone is rendered comatose for life or confined to a wheelchair as a result of the actions of another person.

Mr Bloffwitch: What about the old couple who got bashed by that fellow?

Mr McGOWAN: I am not familiar with the case.

Mr Bloffwitch: An article was in the paper about a 74 year old man.

Mr McGOWAN: We read about these cases all the time. Has anyone been charged?

Mr Cunningham: No.

Mr McGOWAN: To be frank, I did not read the article; I saw the headline. Over the years cases have occurred where people have committed unnecessary and heinous crimes.

Mr Bloffwitch: They pick on people who have no chance of defending themselves.

Mr McGOWAN: That is a relevant factor in sentences. I expect that the offender in that case will receive a heavy penalty. That is why I support the sentence being increased from seven to 10 years. However, it does not remove the problem of offenders receiving only one-third of the head sentence under normal sentencing discretion. That must be addressed.

Mr Bloffwitch: We are working on that.

Mr McGOWAN: It must be addressed; however, it is not being addressed with this legislation so I will confine my remarks to this Bill.

The next major provision of the Bill deals with forgery. I was not aware that if someone is caught in possession of a false credit card or material that can manufacture a false credit card the person is not committing an offence. It is merely known as preparation to commit an offence. Unless one is indulging in an attempt or is party to or committing an offence, no offence is committed. A person in possession of those materials should be placed in the same category as someone on the streets at night caught in possession of housebreaking equipment. That is considered an offence although an offence may not have been attempted. It is a legitimate action for the Government to clamp down on that activity. The incidence of forgery and the misuse of credit cards is increasing. We should do everything we can to prevent any further increase. A specific offence will assist in that regard.

This Bill also deals with promises by people who are being sentenced to assist the Crown by providing information about other crimes. I expect this situation to deal with people who have been found guilty of an offence and who agree to give evidence against someone else.

Mr Prince: Not necessarily. It is also the provision of information, not necessarily the giving of evidence.

Mr McGOWAN: It concerns the giving of evidence or information which assists in charging or acquisition of evidence against another person. No doubt it will refer to someone at the bottom of the drug dealing tree who agrees to give evidence against someone further up the tree. The average person in the street hooked on drugs is not the target. The drug barons and other people who make millions of dollars from misery are the ones we should be targeting.

This provision will enable the courts to impose a lesser sentence on someone found guilty, whether he pleads not guilty but is found guilty, to take into account his commitment to assist when the sentence is being imposed. Rather than saying a sentence is three years in the light of the facts, the judge will say that the sentence is three years but, taking into account the person agreed to assist, the time of incarceration will be one year. Two years is subtracted from the original head sentence because of the commitment to assist the police with their inquiries.

This provision also provides that if a person subsequently does not assist the police in the way he has agreed; in other words he reneges on his commitment to assist by providing evidence that would have subsequently led to further investigation and conviction, that person can be taken back to court where, at the discretion of the judge, the original sentence can be imposed. It is an effort to ensure a person who makes a commitment to assist with evidence is accountable.

Mr Prince: They receive credit for the offer of cooperation when someone is sentenced. If subsequently he does not fulfil that offer of cooperation the sentence is increased in accordance with the first sentence that the judge would have imposed.

Mr McGOWAN: That is my understanding. My one concern is that about eight months ago - I am not sure whether it was the Geraldton drug murders or another case - someone received immunity from prosecution on the basis he would turn Crown evidence.

Mr Prince: That was a different exercise.

Mr McGOWAN: The problem in that case was that someone received immunity against prosecution and gave evidence that was patently false.

Mr Prince: No. A person was called to give evidence in defence of the man charged with an offence. He received a certificate of immunity under the Evidence Act and gave his evidence, which was effectively a confession. Consequently the person charged was acquitted.

Mr McGOWAN: In defence?

Mr Prince: He was witness for the defence.

Mr McGOWAN: Why would he have been granted immunity?

Mr Prince: The court grants immunity against prosecutions as a result of the evidence the person is about to give on the basis that there is no requirement for self-incrimination and the person would not otherwise give the evidence. It has been in the Evidence Act for as long as the member for Eyre has been around, and that is a fair while.

Mr McGOWAN: From memory, this individual abused the immunity that was given to him and subsequently the other person was acquitted. This individual was also given immunity and, therefore, was not subject to any offences. The whole process was brought into disrepute. I wish I had with me the newspaper article which dealt with this issue. It seemed to me that there needed to be some reform in this area.

Mr Prince: The person given immunity had not been charged and was called as a witness in the trial of another person who was charged. It is different from the situation in this Bill.

Mr McGOWAN: As I say, it seemed to me at the time that the person given immunity abused it.

Mr Prince: I think you are jumping to a conclusion that is not necessarily open on the facts, as reported by the media.

Mr McGOWAN: When people are given immunity and fail to live up to their part of the deal, it must be addressed. This provision does not deal with that.

Mr Prince: This is quite a different situation. We are talking about a person who has offended, been found guilty, is sentenced, receives a lesser sentence in recognition of an offer of cooperation, and then reneges on it. The classic case is in motor driving charges. That is a classic example: A person is charged, for example, with driving under the influence of alcohol. I go along to court and give evidence that I was the driver, but that the person charged was inebriated in the car. After the prang I pulled that person behind the wheel and I got in the backseat. I then say that I will give evidence only if I am offered a certificate of immunity. That has happened in the past. It is a very difficult and dangerous area of the law in which people get involved. In fact, charges have been brought against two people in those circumstances for conspiring to pervert the course of justice. It is a very difficult area. You should not make too much of it because it does not arise too often.

Mr McGOWAN: In any event, the Opposition is supportive of this amendment to the law proposed by the Government for the reduction of sentences for individuals and their obligations to perform in that regard.

Another major reform to the legislation is in the area of credit for juveniles. If an adult is sentenced for an offence and has spent considerable time in custody in preparation for trial, is found guilty and subsequently sentenced to a period of imprisonment, the period that person has already spent in custody awaiting trial is taken into account by the judge or magistrate who hands down the sentence. That person receives a corresponding reduction in the sentence. That is just, and it should take place.

At the moment under the Young Offenders Act there is no capacity for a reduction in the head sentence on the basis of the time juveniles have already spent in custody. That is wrong.

Mr Prince: That is an oversight.

Mr McGOWAN: I am pleased the Government is moving to amend that area of the law. It is very unfair to young people and we should deal with it. The second part of this Bill which will be presented in the next parliamentary session, I expect, deals with a number of other areas of law -

Mr Prince: I second read it today.

Mr McGOWAN: - including forensics, stalking and whole of life sentencing, particularly in light of Mr Mitchell in the Greenough murders case and the deficiencies in the law that were pointed out in the appeal to the High Court of Australia. The Opposition will be supporting those amendments. They sound like pretty good reforms to the law.

In the last term of Parliament a couple of reforms to people losing their drivers' licences for failure to pay fines were

introduced. A constituent came to see me recently. He has lost his licence as a result of failing to pay a fine which he did not know about. The fine was delivered to his house. He used to work in the goldfields or the north west for long periods. He explained that his spouse was unaware of what the letter related to and in these days when people receive a lot of paper through the mailbox, the fine got waylaid. He has lost his licence for nine months as a result of the non-payment of this fine. He is in dire circumstances because he is now back looking for work in the city areas.

That is a very unfair consequence for him. He cannot get work because he does not have a car to drive. He is a coded welder, which means that he must work long hours and usually has to travel a long distance to get to his place of employment. He cannot afford taxi fares to get to various places. The public transport services in Rockingham are quite poor, which makes it difficult for him to get to where he wants to go. His mortgage is now in danger. He does not want to drive without a licence. His eligibility for an extraordinary licence does not come up for some time and his ability to afford a lawyer to pursue that course of action is dubious.

I am concerned about his situation. The provisions covering the loss of drivers' licences are causing a great deal of angst among a large proportion of the population of Western Australia. I make a plea to the Minister to examine the situation. I realise we are not dealing with this area in this Bill; however, it must be looked at because it is a heavy-handed result for a person who has committed very little by way of a substantive offence. Generally, the Opposition supports the Bill and we look forward to its passage through this House.

MR McGINTY (Fremantle) [5.27 pm]: I join with the member for Rockingham in indicating the support of the Opposition for this Bill.

Mr Prince: With pleasure. You have a lot of pleasure.

Mr McGINTY: With pleasure. The Bill was somewhat controversial as originally framed. Initially it contained provisions in relation to stalking and the notion of prescribing in the Criminal Code of Western Australia that vengeance should be part of the sentencing rationale. Given the requirement to satisfy the community's appetite for vengeance, that is a directive to the judges when imposing whole of life sentences. As a concept, it is very hard on jurisprudential grounds to justify. I am pleased that issue has been put to one side.

In essence, as drafted, the stalking legislation posed the conceptual difficulty of treating a person as guilty when that person had no intent to commit the crime. In a classic case that came before Magistrate Gething he described a stalker as a love sick puppy dog who did not intend to cause the harm that he did cause to the woman whom he was stalking.

Mr Prince: We are second reading this Bill in this House today, it having been passed by your colleagues in the other House.

Mr McGINTY: I am saying that when the Bill was originally drafted it included somewhat controversial provisions for those reasons. I am not speaking against them but saying that the Bill is now an uncontroversial piece of legislation. That is the import of the statements I was making. The somewhat more controversial matters, including the taking of forensic samples, have been excised from the Bill.

Mr Prince: They are back in now.

Mr McGINTY: They will not be dealt with today but at some future date.

As has been ably addressed by the member for Rockingham, remaining in the legislation before us are essentially five provisions, as well as some miscellaneous matters which are not of enormous import. Perhaps the major issue contained in this legislation is to increase the penalty for grievous bodily harm from the existing seven years to 10 years. We support that matter for the simple reason that it has been accepted by a significant range of people that at the extreme end of the scale of grievous bodily harm where someone is left as a quadriplegic, perhaps comatose, the impact on them and their lives would be so enormous that seven years is not seen as an appropriate period to apply. The Opposition supports increasing that penalty. It will obviously not apply in the lesser cases, although one would expect that as a result of the increase in the maximum penalty applicable a somewhat sterner view would be taken by the judge when sentencing a person found guilty of the lesser forms of grievous bodily harm in the future and that the penalty would be adjusted upward accordingly in line with the maximum available penalty in the legislation.

I will comment on the remaining amendments very briefly. One is to insert section 474 in the Criminal Code in relation to counterfeiting instruments for the preparation of forgery. That covers a loophole in the current law. That is obviously supported. Significant debate between the Minister for Health and the member for Rockingham in the speech just delivered related to offenders who renege on promises to assist the Crown. If people are given a lesser sentence on the basis that they assist the Crown, obviously if they renege on that promise there should be some basis

on which their penalty could be readjusted upward to equate with what they would have been given as part of the sentencing regime had they not undertaken to assist the Crown and therefore received a lesser penalty. If someone reneges on a promise, obviously the sentence should be brought back to the pre-existing situation. That proposition is supported.

The legislation before the House seeks to ensure that the time spent on remand by juveniles is credited for sentences of detention. We support that. A number of miscellaneous amendments are to minor aspects of the criminal law, none of which, as I have quickly read them, requires any significant debate in this House. For those reasons we are happy to indicate our support for this legislation.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

SUPREME COURT AMENDMENT BILL

Second Reading

Resumed from 29 April.

MR McGINTY (Fremantle) [5.36 pm]: My contribution in this debate will be commensurate with the length of the Bill. It is one of the shortest Bills I have ever seen in this House. It contains only one relevant clause apart from the preambles. It is to insert into section 167 of the Supreme Court Act 1935 a new paragraph (da) which reads -

> For prescribing or regulating any matters relating to the costs of proceedings, where those costs are not the subject of a determination under section 58W of the *Legal Practitioners Act 1893.*

That is the sum total of the effect of this legislation. It is to assist in the smooth administration of justice in this State. Currently the operation of the Supreme Court Act and the Legal Practitioners Act has left something of a loophole. We are told that judges or a master have limited ability to fix the costs that are payable and for those matters to be dealt with as prescribed in the legislation. The Minister in his second reading speech made the observation that the provisions of the Legal Practitioners Act were not sufficiently wide to enable determinations to be made in respect of certain costs incurred in the conduct of proceedings, such as witness costs and expenses, costs relating to the service of documents and other miscellaneous costs.

In relation to the Supreme Court Act the Minister in his second reading speech observed -

> The current rule making powers contained within section 167 of the Supreme Court Act are not considered sufficiently wide to enable the judges to make rules prescribing scales of, or regulating matters relating to, the costs and expenses of proceedings where those costs or expenses are not, or are unable to be made, within the determinations made by the Legal Costs Committee.

In other words, certain costs of legal proceedings are not or cannot be currently regulated by a rule made under the Supreme Court Act or a determination under the Legal Practitioners Act. This is an uncontroversial matter. I hope it will save clients of legal firms time and also save the courts' time when hearing argument about these matters by being able to prescribe them in a scale. It clearly has the support of the Opposition.

MR McGOWAN (Rockingham) [5.39 pm]: The Opposition is supportive of this Bill. I was surprised when I read the second reading speech that the current situation exists. I was under the impression that a scale of fees relating to people who appear as witnesses was in place. For a number of criminal law matters there is a set fee for people who are subject to prosecution and subsequently found not guilty. It sets out what they receive for legal fees when they are represented and found not guilty. An Act sets out a fee for those people who are found not guilty and are -

Mr Prince: Only in summary courts; not in the Supreme and District Courts.

Mr McGOWAN: I have appeared in the District Court on a criminal matter only once.

Dr Hames: What did you do?

Mr McGinty: You have a better track record than the Minister.

Mr Prince: I have a 50 per cent win rate.

Mr McGOWAN: I had a 100 per cent win rate. My experience is limited to the lower jurisdictions. However, the Minister is substantially older than I am.

Mr Prince: With less hair, a bigger waistline and weaker eyes, but a brain.

Mr McGOWAN: The Minister is substantially older than I am, so I expect him to have appeared in the higher court more often than I have.

The Opposition supports the Bill. Having a specific scale will make it easier for litigants and those appearing as witnesses. I am almost tempted to keep talking until 6.00 pm.

Mr Prince: Have mercy on the Hansard reporter.

Mr McGOWAN: The Minister for Fisheries gave me a copy of the "speech for all occasions", which is a standard National Party speech. I have a copy of it and I am thinking of producing it.

The Opposition supports this Bill.

MR PRINCE (Albany - Minister for Health) [5.41 pm]: I thank the members of Her Majesty's loyal Opposition opposite for their eloquence and support of this Bill.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and passed.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Third Reading

MR SHAVE (Alfred Cove - Minister for Fair Trading) [5.43 pm]: I move -

That the Bill be now read a third time.

MR BARNETT (Cottesloe - Leader of the House) [5.44 pm]: This is a very important Bill and it has great support from the Government and the Minister.

MR BROWN (Bassendean) [5.45 pm]: While this Bill contains a number of good reforms, which are welcomed by the industry, it is deficient in that it does not protect small business retailers in a number of crucial areas, in particular in respect of security of tenure. Those arguments were presented in Committee yesterday, so I will not restate them. When the Bill goes to another place, the Opposition will make representations to members to see whether we can achieve greater success in having the amendments included in the Bill.

MS MacTIERNAN (Armadale) [5.46 pm]: A great number of improvements are contained in this legislation. I compliment the Minister for being prepared to listen to small business people and retailers and for resisting some of the more extravagant claims and demands of large property owners and their managing agents. It is a pity that some of the opportunities that were presented to the Minister to provide a greater measure of fairness were passed over. The Minister has said that this is not the end of the story - we can come back another day. It has taken about six years to get this Bill through the House, so it is highly unlikely that we will have another opportunity to debate this issue. One can only hope that a couple of the amendments that the member for Bassendean and I presented will be accepted.

I will use this opportunity to make a comment about one provision that the Minister ruled out, because it is a graphic example of the injustice that can occur if there is no first right of refusal. A case has recently come to my attention involving the Ampol Centrepoint service station in Midland. That service station has been run for a number of years by Julie and Allen Notte. They were told recently by Centrepoint Midland that after their lease expires in September 1998 they will not be given an opportunity to renew it. They have worked very hard and have built up the goodwill in that business. Now they are to lose it all.

Their dismay turned to anger when they recently saw a flyer headed "Fresh Petrol". It was an advertisement put out by Woolworths, which is now serving this new brand of petrol. Their service station was listed as one of the new Woolworths petrol stations. While Centrepoint Midland it is not owned by Woolworths, it is the anchor tenant. It is clear that it has put pressure on the shopping centre proprietor to give it access to that site. We have a situation exactly as we described to the Minister. These small business people have developed the goodwill of their business and the proprietor has then decided to turf them out. They are not being turfed out because the proprietors want to do something else with the business or the land or because they want to change the tenancy mix, but because they want to exploit the goodwill developed by the tenant.

Mr Bloffwitch: At the end of the lease.

Ms MacTIERNAN: Yes. As the member for Bassendean stated, we have information from other States where these provisions have been put in place. When a lease expires, there should be a first right of refusal. That does not mean it is an option, as the member for Geraldton knows.

Mr Bloffwitch: I read the amendment.

Ms MacTIERNAN: The member would appreciate the difference between a first right of refusal and an option. It still gives the landlord flexibility to deal with the land, but it will stop abuses such as this. Shopping centre managers and owners of the centre, and those who are doing business with them, can conspire to use and exploit the goodwill of a small business, without having to pay a cracker for it. That is unfair and cannot be justified.

We used hypothetical examples when speaking to the Minister, but this example today is absolute evidence that the theoretical examples are mere examples of the real life tragedies that many small businesses face. With the move of Woolworths into the petroleum industry we will see more of this. Woolworths will be able to pressure shopping centre owners. Shopping centre owners will be pressured by their anchor tenants, or it might be an arrangement that the shopping centre proprietors will be happy to embrace. However, we will see more instances. We already know about the tragedy of Julie and Alan Notte, who have lost their business and cannot get a single cent for goodwill. They will watch while one of Australia's largest retailers moves in to take advantage of their hard work over the years, without paying a cent.

I urge the Minister to reconsider his position on the clause put forward by the member for Bassendean. It is crucial that we provide some real security of tenure. We are not talking about taking over the landlord's rights. The landlord will still have any legitimate flexibility that he wants. This simply means that the landlord will be precluded from exploiting in a disgraceful and immoral way the goodwill of a small business. I will appreciate the Minister giving some indication whether he is prepared to reconsider the issue. We will fight this case very strongly in the Legislative Council.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [5.54 pm]: I thank members for their input to this legislation. Commercial tenancy legislation is not an easy matter; sometimes it is an emotive issue. Everyone involved in the debate understands the problems that small businesses face when dealing in an environment where a property owner has extensive resources. In any such negotiations, invariably the power to negotiate is balanced in favour of the property owner. That can occur whether it involves a shopping centre, a tavern, or any other site. When someone wishes to lease a property, the owner of the premises will say that he wants his lawyer to draw up the lease agreement. When the agreement is drawn up, usually it reflects the concerns the solicitor may have for the rights of the property owner.

All leases and conditions can be negotiated. From my experience in property deals, as an owner of hotels - and I have leased hotels - the lessee has been disadvantaged because often if the potential lessee is not prepared to accede to the wishes of the owner, he will not win the lease to the premises. These days when a property comes up for lease, and money can be made, there is often competition, and the concern for the lessee is that if he does not agree to the proposed terms the property owner may be inclined to give the lease to someone who is prepared to accept his terms. That is a commercial reality. In some circumstances, that is most unfortunate for the people who wish to lease commercial premises. For that reason, this legislation is before us today and a senate committee of the Federal Parliament has considered the whole situation.

An imbalance does exist. However, I believe that a large number of property owners are very ethical and reasonable. When I have leased hotels, very often my partners suggested that we could get a certain rent for a property, but I have suggested that if we tried to get too much money by way of rent, rather than getting the right tenant who would protect the business, in the long term we would lose rather than benefit. Not everyone has that attitude. Some people think that if they get the maximum rent and the lessee goes broke, they will put someone else in the business. That is unfortunate. This legislation reflects the concern held by Parliament.

The member for Armadale is correct. People in the community have suggested that supporters of the political party to which I belong are not happy with this legislation. However, the point is that those people do not represent all supporters of political parties, whether Liberal or Labor. We should not legislate just to protect our supporters. Whatever we do with legislation we must be fair and reasonable, and this legislation is fair and reasonable. It does not go as far as some people would like to see it go.

The member for Armadale has cited an occurrence which has affected a small business. I have sympathy for those people, and I will be interested in looking at that case. However, I will not give a commitment to the member for Armadale about what will happen in the other House or what will happen in this House when the Bill returns to us, because we have had a long and thorough debate.

The Government has stated its position, and has been very fair in its decisions. We cannot please everyone. We could have gone way or the other, but we have tried to find a balance that is fair and reasonable. In essence, most small business people support what we are doing. They are concerned that the legislation is not retrospective and applicable to existing leases. The Government does not support that thinking. However, in future this legislation

will be varied; it will benefit some people who lease premises in shopping centres. Therefore, as Minister, I am very pleased that this legislation has progressed through this House. I hope that in the other place members will be sensible enough to recognise that the Government has undertaken a very difficult balancing act to produce this legislation. I look forward to it being supported by the Legislative Council. I thank all members who have had input to this legislation.

Question put and passed.

Bill read a third time and transmitted to the Council.

BILLS (2) - RETURNED

1. Bookmakers Betting Levy Amendment Bill.

2. WADC and WA Exim Corporation Repeal Bill.

Bills returned from the Council without amendment.

Sitting suspended from 6.00 to 7.00 pm

RAIL SAFETY BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

The amendments made by the Council were as follows -

No 1.

Clause 4, page 6, after line 25 - To insert the following subclause -

(6) Sections 41 and 42 of the *Interpretation Act 1984* apply to and in relation to a notice under subsection (3) or (5) as if the notice were a regulation.

No 2.

Clause 50, page 46, after line 2 - To insert the following new subclause -

(3) Subsection (2) does not apply to an investigation commenced under section 42.

No 3.

Clause 63, page 54, lines 12 to 15 - To delete the lines and substitute the following -

(2) The Minister is to -

(a) prepare a report based on the review under subsection (1); and

(b) cause it to be laid before each House of Parliament,

within 6 years after the commencement of this Act.

Mr OMODEI: I move-

That amendment No 1 made by the Council be agreed to.

The amendment to clause 4 was moved by the Government in response to amendments proposed by the Opposition which would require exemptions to be prescribed in regulation. It is necessary for the Office of Rail Safety to have the flexibility to grant exemptions and to alter the conditions of exemptions at short notice, which would make the Opposition's proposals unworkable. This amendment will give the Office of Rail Safety the ability to act quickly and in the best interests of rail safety. The notices will be subject to sections 41 and 42 of the Interpretation Act, which will still allow for review by the Parliament.

Ms MacTIERNAN: I had hoped the Minister would have an adviser with him on this Bill, because we are a bit puzzled by what has been proposed. The Minister is correct in part in what he says. This amendment is in response to an amendment that was proposed by the Opposition in the Legislative Council. That amendment that we proposed

took into account the need from time to time for the Minister to act as a matter of urgency and to make an exemption by way of notice. The amendment had a two-tiered structure. We proposed that exemptions that were of less than 14 days' duration could be made by way of notice. We are dealing with exemptions for railways not to comply with the safety standards that are set out in this Bill. Various examples were drawn to our attention, such as the need for Hotham Valley Railway to move an otherwise static display from point A to B. Each of the examples that was brought to our attention was valid. The amendment that we proposed would allow the Minister to grant such an exemption immediately without the need for it to be recorded in the *Gazette*, which was, according to the Minister's department, a lengthy process.

However, we proposed also that exemptions that were of more than 14 days' duration should be made by way of regulation. The reason is that we were concerned that significant and major operations, such as the iron ore facilities in the north west, could be exempted from this Bill and would not be subject to parliamentary scrutiny.

That two-tiered structure would have addressed the problem that the Minister has just identified. However, for reasons that my colleagues in the Legislative Council have been unable to explain to me, the Government has now proposed some sort of hybrid, where every exemption will be by way of notice, but those notices will be subject to sections 41 and 42 of the Interpretation Act, which will mean that they will operate in the same way as regulations.

We are unable to fathom how that will work, and we seek some clarification in order that this debate may form part of the consideration if this matter is ever contested at a later stage. We are keen to have an explanation of what the Government believes will be achieved by this amendment.

It does not make sense. The Minister's explanation tonight is that the Government wants the power to act in an instant and direct way. The Opposition believes that its amendment covered that, but the Government has accepted a provision that appears to make everything into a regulation. Will the Minister explain?

Mr OMODEI: I can only go on the advice given to me by the Minister for Transport and the Department of Transport on these matters. I understand the matter was thoroughly debated in another place and that the Opposition there agreed to the amendment made by the Government. As the member rightly said, it would allow flexibility to grant exemptions or alter the conditions of exemptions at short notice. I understand the Opposition wanted that provision but not by regulation. This facilitates what the Opposition wanted to do and it allows the Office of Rail Safety to act quickly and in the best interest of rail safety. I expect the operation of the provision was explained in the Legislative Council, and I do not have advisers in this Chamber to assist me. As the matter was agreed to by the Opposition in the Legislative Council, I assumed it would be agreed to by the Opposition in the Legislative Assembly.

Mr WIESE: I may be able to help the member for Armadale. This matter comes before the Joint Standing Committee on Delegated Legislation on many occasions, and huge problems arise with matters done by way of notice. They need only be published in the *Government Gazette* to become operative on the day of publication. They are not subject to any parliamentary scrutiny and, hence, the Parliament has no opportunity to say whether the proposals are right or wrong or to disallow them. That is the effect of a notice.

The previous mechanism in this Bill was to do it by way of notice, which meant Parliament would have no scrutiny of the decision made. The proposed amendment enables the bureaucracy or the Minister to implement something immediately by way of notice, but the effect of subclause (6) will be to make it subject to sections 41 and 42 of the Interpretation Act. Section 41 will require the notice to be tabled in the Parliament, and section 42 will make it subject to the normal disallowance procedures of the Parliament that apply to a regulation. It will achieve exactly what the member wants and what I want, as Chairman of the Joint Standing Committee on Delegated Legislation.

Ms MacTiernan: Can you explain the difference for the Government between a notice which is subject to sections 41 and 42, and a regulation?

Mr WIESE: It takes a lot longer to put a regulation together because it must go through the Exco process and the Governor. The committee is told that it takes a minimum of six to eight weeks to have it processed. If the department wants to deal with something quickly, a notice can be done within three or four days. It is a matter only of meeting the printing deadline of the *Government Gazette*, and it does not necessarily need to be drafted by a parliamentary draftsman and go through all the other processes involved in a regulation.

Ms MacTiernan: Are there precedents where notices have been subject to sections 41 and 42?

Mr WIESE: Yes, absolutely.

Ms MacTiernan: And can they be totally disallowed?

Mr WIESE: Yes, and it is very pleasing. I will give an example. The Vocational Education and Training Act, which I reported on this morning, contains exactly this mechanism in, from memory, clause 38. The Delegated Legislation

Committee believes it should be done, and I have raised this matter with the Minister. That power may not be misused and it may be included for good reasons, but, as the member for Armadale has indicated, it could be misused. Therefore, the committee agreed to it provided the notice is subject to the normal disallowance and scrutiny procedures of the Parliament. I wish all notices, which often have the power to implement matters which have a substantial effect on the general public, were subject to the scrutiny and disallowance procedures of this Parliament.

Ms MacTIERNAN: I am absolutely indebted to the member for Wagin. His contribution demonstrates that the cream does not always rise to the top and that portfolios obviously are not always allocated on the basis of ability. I am very grateful for that explanation, and the Opposition no longer has any resistance to this amendment.

Question put and passed; the Council's amendment agreed to.

Mr OMODEI: I move -

That amendment No 2 made by the Council be agreed to.

This amendment relates to clause 50. The member for Armadale will recall that she raised this issue during the second reading and Committee debates. The amendment was moved by the Opposition and supported by the Government. It will provide a blanket exemption from self-incrimination, with regard to inquiries conducted by investigators appointed under clause 42 to inquire into serious rail accidents, while allowing authorised officers to take statements for use in proceedings under the enforcement provisions of the Bill.

Ms MacTIERNAN: The Opposition supports this amendment. The Opposition achieved certain amendments in this place on clause 50 and then more extensive amendments were proposed. The Opposition met with officers of the Department of Transport last night. They had some objection to the more general amendments proposed, and put forward some valid considerations about why the provisions proposed by the Opposition were too broad. In the spirit of compromise that always characterises the Opposition, it was prepared to move this more limited amendment. It will ensure that the investigation of rail safety in the case of accidents involving employees will be completely open, and encourage people to come forward with information in an atmosphere of trust. After all, this legislation is aimed at improving rail safety, and not at retribution, fault finding and invoking various insurance clauses. The Opposition is pleased that the Minister for Transport was able to read the numbers last night and support this amendment.

Mr BROWN: I also support this amendment. Clause 50(1) provides that a person must answer questions, and that any answer given or document produced is not admissible in evidence against that person in civil or criminal proceedings. Subclause (2) is a caveat on the protection that is applied to the extent that it applies only if the person objects before the answer is given or the document is provided, or in circumstances in which the person does not object because his or her attention is not drawn to the right to object. The amendment states that subclause (2) does not apply in relation to inquiries under section 42 of the Act. That deals with the investigator conducting inquiries in an attempt to determine the circumstances surrounding any accident or incident for the purpose of the preventing an occurrence of an accident or incident in the future. Can the Minister confirm that in inquiries under section 42 a person can be asked questions, be required to give answers that are self-incriminating and be asked to produce documents that are self-incriminating, but under clause 50(1) none of that information can be used against that person in civil or criminal proceedings, and the fact that a person has objected to a question is not relevant?

Mr Omodei: That is correct.

Mr BROWN: I agree with the member for Armadale and our colleagues in the other place and support the amendment.

Ms MacTIERNAN: I note that the Minister for Local Government has concurred with the outline given by the member for Bassendean. The officers of the department were concerned that in their investigations in relation to section 52 - for example, tampering with railway equipment - confessional evidence that had been collected involving willful interference with railway safety equipment or railway property generally that had led to an accident should be treated differently from the situation of people wanting to come forward with information where there had been an accident or incident which had led to an accident. In any investigation that has been commenced under section 42, which is an investigation into an accident or incident to prevent the occurrence of accidents, people should be completely without jeopardy if they provide evidence to the investigator and that information should not be used in either civil or criminal proceedings to their detriment.

Question put and passed; the Council's amendment agreed to.

Mr OMODEI: I move -

That amendment No 3 be agreed to.

This is an accountability amendment moved by the Australian Democrats in the other place which requires the Minister not only to commence a review of the Act after five years but also to complete and table that report in Parliament within six years of the commencement of the Bill.

Question put and passed; the Council's amendment agreed to.

Report

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

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

The amendments made by the Council were as follows -

No 1.

Clause 13, page 8, lines 5 to 8 - To delete the clause.

No 2.

Clause 22, page 15, lines 1 to 20 - To delete the clause.

No 3.

Clause 32, page 19, line 19 to page 20, line 10 - To delete the clause.

Mr KIERATH: I move -

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

We have had fairly extensive debate on this amendment and my comments are on record.

Mr KOBELKE: The Opposition wishes to maintain the amendment moved by our colleagues in the other place. My understanding is that members in the Legislative Council have a firm resolve to ensure that clause 13 be removed from the Bill. Therefore, we need to record the reason for that. This amendment will leave section 61 of the Workers' Compensation and Rehabilitation Act in its current form. The last major amendment made by the Minister in 1993 saw a major reduction in support to injured workers through a variety of means. The amendment the Minister wishes to reinstate in the Bill will further water down support for injured workers.

Section 61 of the principal Act relates to the unlawful discontinuation of weekly payments. Section 60 is the means by which weekly payment can be discontinued. I understand that section 60 is used more frequently than section 61; however, I am not a practitioner in the field and I am open to correction in that regard. Nevertheless, section 61 provides guarantees for injured workers to have their weekly payments reinstated if they are illegally discontinued.

One of the key elements in the test on whether payments should be discontinued relates to a determination on whether the worker is able to return to work. The current test for the return to work is for a medical practitioner to certify that a worker is wholly or partially recovered. That is to be changed to a medical practitioner certifying that the worker has total or partial capacity for work. That is a judgment which many medical practitioners are not properly qualified to make. Medical practitioners can make a judgment on the level of recovery of an injured worker, but determining whether a worker has partial or total capacity to work relates to the availability of work in the workplace and the fitness of the worker for the work. Fitness for different physical activity is something which the doctor could certify; however, whether the worker has total or partial capacity for work is well beyond the judgment which is the professional preserve of a medical practitioner. Therefore, the Minister's amendment is likely to disadvantage injured workers.

On the basis of a doctor's certificate, an injured worker could forgo weekly payments and be placed in a position of considerable jeopardy. When taking into account the serious inroads to the benefits available to injured workers by the 1993 amendment, in no way could the Opposition support a further diminution of those rights. Its application will determine whether it leads to abuse or be a minor issue. The Minister has previously argued that the change is

fairly minor. He argued at another time why the amendment is appropriate, but he has not been willing to do so yet this evening. Whether it is a minor or major reduction in the rights of injured workers, the Labor Party does not want to see it perpetrated. Injured workers have already been disadvantaged. The Opposition objects to the Minister's move to oppose the amendment contained in the message. The amendment made by the other place, supported by opposition members in this place, requires that the Act remains in its current form.

Mr BROWN: We have seen change to the workers' compensation system since the Court Government came to power with a reduction in the benefits available to injured workers. Also, additional tests have been applied to make it more difficult for injured workers to obtain compensation. As the Minister is not supporting his position, he seeks to avoid explaining how the Government's position will benefit injured workers. It will not be of benefit. If one does not support injured workers, it is best to remain silent on the matter. Unless the Minister can demonstrate in this Chamber that his position will benefit injured workers, it can be seen that yet again the Government intends to chip away at compensation rights for injured workers. The onus is on the Minister to explain how his clause will benefit injured workers or the system as a whole. In the absence of any explanation, one is left with the conclusion that this is a continuation of the changes already made by the Court Government; that is, it seeks to reduce workers' compensation benefits for people injured in the workplace.

Mr KIERATH: We previously went through the clause to be affected by this amendment. I am invited by both members who have spoken to place comment on the record. The amendment is disagreed to as entitlements to workers' compensation benefits are determined on the basis of a medical practitioner's evaluation on the worker's incapacity for work. The "partial or wholly recovered" issue does not relate to the ability of a worker to return to employment. In fact, the words whole or partial capacity to work protect the worker from further injury if recovered, but not fit for work, and the employer in employing a worker beyond his capacity. Therefore, the amendment contained in the message should be disagreed to.

Ms MacTIERNAN: I have a problem in how we are dealing with the legislation. It seems to have been brought on without notice or appearance on the agenda distributed by the Leader of the House at the beginning of the day. The Minister indicates that it is on the agenda sheet. Also, we do not have access to the Bill. I appreciate that I now have been provided a copy of the legislation, but no general copies have been available to members.

Question put and a division taken with the following result -

Ayes (25)

Mr Baker	Mrs Edwardes	Mr MacLean	Mr Prince
Mr Barnett	Dr Hames	Mr Marshall	Mr Trenorden
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Masters	Dr Turnbull
Mr Bloffwitch	Mr House	Mr McNee	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Nicholls	Mr Wiese
Mr Court	Mr Kierath	Mr Omodei	Mr Osborne *(Teller)*
Mr Day			

Noes (17)

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

Pairs

Mr Cowan	Mr Carpenter
Mr Board	Mr Ripper
Mrs Parker	Mr Thomas

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

Mr KIERATH: I move -

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

This amendment is rejected as the wording in the Act provides no discretion for the dispute resolution body on whether a medical dispute is referred to a medical panel. Given that some medical disputes could be minor in nature this discretion is essential to ensure that delays in resolutions do not disadvantage either the injured worker or the employer. Further, this clause includes an ability for the medical panel to determine a worker's capacity for work for the same reasons set out in amendment No 1.

Mr KOBELKE: The Opposition supports deletion of clause 22 moved in the other place. The clause amends sections 84R, 84ZH and 84ZR of the principal Act. The key part of the amendment is to extend the role of medical panels. I have been advised that medical panels are a very good mechanism for dealing with disputes over compensation cases. Bearing in mind that decisions of medical panels are binding and not reviewable, questions arise about justice being served and the interests of injured workers being looked after.

A medical panel can determine the rights and benefits available to an injured worker. If the medical panel were adjudicating on only medical facts it would possibly be a good thing that legal or judiciary review did not follow a decision. However, when the medical panel must make decisions about matters on which it does not have professional expertise it would be a major miscarriage of justice if those decisions were not reviewable.

Section 84R allows a conciliation officer to refer a question "as to the nature or extent of a disability, or as to whether a disability is permanent or temporary, for determination by a medical assessment panel".

Quite rightly the medical panel is expected to have the professional expertise and the mechanism for ensuring that a just determination is made about whether a disability is permanent or temporary. However, the amending clause provides that the medical panel will be able to consider -

(a) the nature or extent of a disability;

(b) whether a disability is permanent or temporary; or

(c) a worker's capacity for work,

for determination by a medical assessment panel.

That part of the clause provides for the medical assessment panel to determine a worker's capacity for work. As I indicated earlier, medical panels do not necessarily have the expertise to make an assessment about a worker's capacity for work. Some medical practitioners may have undertaken additional study and acquired expertise in areas of rehabilitation and employment recruitment; they may be in day to day touch with employment agencies and have a feel for what jobs are available and whether a worker who has a certain incapacity due to a work caused injury has capacity for work at a given time in the labour market. However, that is not a requirement for appointment as a member of a medical assessment panel. One could not assume that the panel comprises a majority of medical practitioners who can make a fully informed and professional judgment on an injured worker's capacity for work. The clause seeks to set up an unjust procedure to enable people to make decisions who are not competent to do so.

Mr BROWN: This issue was the subject of considerable debate during the debate on the Bill that was passed some years ago. That Bill, which was guillotined through both Houses, referred those matters to a medical assessment panel. We expressed some reservations at the time - or feelings stronger than reservations - about the procedures that were established in the Bill, now the Act.

The role of a medical assessment panel is to deal with medical issues and not the nature of work. Although many medical practitioners are skilled in their occupation or profession, they are not skilled in knowing the nature of work carried out at the workplace. They seek to make judgments about that from an uninformed position. They are informed in making medical assessments; they are not informed in the nature of work that occurs at the workplace. It is important to distinguish those two types of discretions that have to be brought to bear; one by medical practitioners, the other, quite separately, by persons who are familiar with and have an understanding of the nature of work required at the workplace.

For a short time I advocated for injured workers and had the opportunity of reading a large range of medical reports. It is obvious that there will be differences of opinion between members of the medical profession as to a person's disability. There are quite significant differences sometimes, particularly between orthopaedic surgeons and rheumatologists and so on. What is abundantly clear is that many medical practitioners and specialists have some theoretical idea of what happens at the workplace but not practical knowledge. To put them in a position where they are theorising rather than making a proper decision is wrong.

I support the comments made by the member for Nollamara. The Minister said this provision in the Bill would clog up the system. As I see it, it provides a wider discretion to conciliation officers. It does not set out stipulations; rather, it gives a discretion to those officers to refer workers to a medical panel to determine issues of disability, the permanency or otherwise of that disability, and the worker's capacity for work, etc.

Ms MacTIERNAN: I hoped to have some response from the Minister to the points made, particularly those by the member for Nollamara; for example, does the Minister agree that those persons appointed to a medical panel need not have any expertise or special knowledge about a worker's capacity to work? That is not an assessment on which a person with medical training is necessarily capable of making. The point made by the member for Nollamara is

that when a system is set up where the decision of a medical panel is not capable of review and the panel is made up of persons who are not necessarily expert -

The DEPUTY CHAIRMAN: Excuse me, member for Armadale. The level of noise is creeping up rapidly and I cannot hear. I ask members to please be quiet or if they want to continue talking, to leave the Chamber.

Ms MacTIERNAN: Thank you, those are very wise words, Madam Deputy Chairman. I hope they are taken into account particularly by the member for Peel, who is one of the most talkative of our members.

We are keen to hear from the Minister. If he is taking this parliamentary process seriously, he must acknowledge that a legitimate issue has been raised by the member for Nollamara. He has pointed out clearly that a medical practitioner, just by virtue of being a medical practitioner, will not necessarily be in a position to make a profound judgment about a worker's capacity to work. It is a worrying situation where the decisions of a medical panel are no longer capable of review. Will the Minister explain to us why these objections raised today are not being taken into account by him?

Mr KIERATH: The reason I am not doing it is that it goes to a much deeper question, which is that it is part of the Act. We are not here to revisit that debate. We have had that debate a long time previously. To reiterate for the benefit of the member for Armadale: The medical panels and the people who use them say they work exceedingly well. In appointing people to those panels, we try to get people with the appropriate experience. As Minister, I have not had one complaint about the operation of the medical panels. I invite the member for Armadale if she has any complaints to give them to me.

Ms MacTiernan: The Minister has not had a complaint about the medical panels; however, is it not the case that the Minister is now seeking to extend the work of the medical panels?

Mr KIERATH: Because they are working so well.

Ms MacTiernan: However, the criteria on which they previously made their determinations will be extended. The concerns that we have raised are about their capacity to take on the new tasks that the Minister has identified, in particular their capacity to determine a worker's capacity to work.

Mr KIERATH: Did the member for Armadale hear the comments I made in the first place?

Ms MacTiernan: Yes I did. I also heard the response from the member for Nollamara. It may be that the medical panels are working well in determining the nature of workers' disabilities. However, it is a different matter to expect them to make a decision on the capacity of workers to work when they are not necessarily equipped to do so.

Mr KIERATH: We think they are in the best position to make that judgment.

Ms MacTiernan: And for that judgment not to be subject to review?

Mr KIERATH: The medical panels are not subject to review.

Ms MacTiernan: That is right.

Mr KIERATH: That is why there have been no lengthy delays, why it has been fast, quick and efficient. As I said, no-one has complained about the quality of advice that has come from the medical panels.

Ms MacTiernan: That may be because they are confined to areas within their own expertise. This provision seeks to expand the scope of the non-reviewable decisions made by the medical panel in such a way that, although there may be individual members of the medical panel who have the expertise to make that determination, it is not necessarily the case that all of those members of the medical panel will have that capacity. This is a dangerous inclusion, given that the work of the medical panels, for reasons explained by the Minister, are not subject to review. The Minister's argument that they have worked well in the past dealing with a different bundle of issues is no justification for saying that we can extend that bundle of issues that they deal with and all will be well. That really is a fallacious argument.

Mr BROWN: The Minister says that he is not aware of any complaints with the medical panels and that they are working extremely well. Is the Minister aware a writ was taken out against medical panels because a person claimed he was not given a fair hearing, and the matter went to the District or the Supreme Court?

Mr KIERATH: I am not aware of that. However, I will ask my adviser, the chief executive officer from WorkCover. I am advised there was one case and it was ruled in favour of the medical panel.

Question put and a division taken with the following result -

Ayes (26)

Mr Baker	Mrs Edwardes	Mr Marshall	Mr Shave
Mr Barnett	Dr Hames	Mr Masters	Mr Trenorden
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr McNee	Dr Turnbull
Mr Bloffwitch	Mr House	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Omodei	Mr Wiese
Mr Court	Mr Kierath	Mr Prince	Mr Osborne *(Teller)*
Mr Day	Mr MacLean		

Noes (18)

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

Pair

Mr Cowan	Mr Carpenter

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

Mr KIERATH: I move -

That amendment No 3 made by the Council be not agreed to.

I indicate that I will seek to substitute a clause, and I will give the reasons for doing that at that time. It is important to say at the outset that that area of the legislation is causing great problems. In the original amendment there was some tightening up of those provisions, but they have been rejected. That is rather tragic. In that case, we disagree with this amendment. In the time taken for the passage of this Bill, the situation has deteriorated to the stage where the system is in grave danger of falling over. Having an unfunded workers' compensation scheme would be a tragic result for this State.

Mr KOBELKE: This is a highly unusual and extraordinary move being taken by the Minister and the Government. Without going to the major issues, which are of great concern to me and to many members of the Parliament and the wider community, the formal part before us becomes a minor issue of the change in the definition contained in proposed section 93A. The amending Bill attempted to remove the definition of "future pecuniary" and replace it with "future loss of earnings." That would have some effect although, in the terms of the Minister, it was probably a minor effect on the financial problems which the insurers may have with the level of funds under proposed section 93D. Despite problems insurers may have, we do not think they should be addressed at this time by changing the definition from "future pecuniary loss" to "future loss of earnings".

The future pecuniary loss allows various types of funds to be taken into account which would be available to the injured employee. With a move to future loss of earnings there is a narrower definition. Future pecuniary loss might include some medical expenses, superannuation entitlements and elements of salary packaging as well as, possibly, the interest paid on a settlement that may have been delayed, but I am not certain of that. When the definition was changed to future loss of earnings, it was defined in the Bill as meaning the loss of earnings, except to the extent that has already been incurred at the time when the amount of that loss is required to be determined by a court.

Some of those contributing costs to the injured employee will not be taken into account. It will make it very difficult for the injured worker to reach the limit - at present it is just over $100 000 - required to lodge a claim under proposed section 93D. The claim is allowed if there is a degree of disability beyond 30 per cent or the future pecuniary loss resulting from the disability is an amount at least equal to the prescribed amount; that is, as I say, about $100 000. When the definition is changed from that of future pecuniary loss to future loss of earnings, the amount which can be aggregated to determine whether the loss to the injured worker would be equal to, or more than, the prescribed amount also changes.

The Chamber should not be doing that at this time. The Opposition takes very seriously the need to address the susceptibility of the whole system. We are quite willing to sit down with the Government, WorkCover and the other players involved, including those representing injured workers and those representing insurers, to try to arrive at what changes may be necessary and to look at the problems that may be in the system. I will have the opportunity to say more about that later. At this stage we should not be changing that definition in a way that very directly reduces the entitlement and rights of injured workers.

No-one wants to be an injured worker. The system tries to provide some justice but that justice to the injured worker never compensates adequately for the loss and suffering of the injured worker. The injured worker always loses out. If this Government amendment is carried, injured workers will lose out in an even greater way. It ensures that they have less opportunity to make a claim under proposed section 93D. We totally reject that and cannot support the amendment moved by the Minister.

Ms MacTIERNAN: Many of the problems that the industry is experiencing with "future pecuniary loss" and the reasons that the Minister wants to lower the bar and set it at "future loss of earnings" are of the Minister's own making. Through his own bloody-mindedness the Minister refused to accept for a long time the argument put by the union movement and the insurers that it was absolutely stupid to deny redemptions when people had been permanently but partially injured. Because insurers were being stuck with these claims that were going on forever, they exploited the provision of section 93D to get a de facto redemption. The Minister had this particular bigotry: He said that where a person had been permanently and partially incapacitated, that person's workers' compensation claim will never be settled. That person might be getting only $100 or $150 a week but the claim must go on ad infinitum. Insurers must keep their files open and provide for that claim. It was in that context we saw a great use of section 93D. The Minister has been dragged screaming to some recognition of this, albeit probably too little too late, and into accepting that it is quite legitimate and proper, and in the interests of employer, employee and insurers, to allow redemptions in workers' compensation for permanent but partial disablement. One would expect under those circumstances to see a diminution in any event of common law claims using section 93D.

I find it odd that the Minister talks about a very real problem with the workers' compensation scheme being underfunded. Year after year we have endured the Minister getting up in this place and crowing about how the premium rates have dropped so dramatically. He has said to us that it is all hunky-dory that rates have been reduced so dramatically. We know that is because many workers out there are being denied their just compensation. Workers are being compelled to go into conciliation unrepresented. They are told lies in the conciliation by the insurer's representatives. I have examples in my electorate of subcontractors who have been told during the conciliation process that because they are subcontractors they are not entitled to workers' compensation. The research done by the Legislative Council Legislation Committee when it inquired into this shows that over 50 per cent of people who had gone through the conciliation process feel that they had been gypped and compelled to settle for something considerably less than their real entitlement. It is hardly surprising in those circumstances where injured workers were not being given their due rights that workers' compensation premiums fell.

The Minister is now saying that all he said about the falls in workers' compensation premiums appears not to be true. He is saying that we now have a problem with unfunded liabilities. I find that quite implausible. If there were any problems with the overuse of section 93D, they were of the Minister's own making because of his ideological difficulty in accepting the concept of a permanent but partial redemption, a difficulty which by dint of the pressure of the insurers, he has been forced to address to some extent in the legislation. It is far too premature for us in this Chamber to look at this change until such time as we see whether these changes to the redemption procedures reduce, as I expect they will, claims under section 93D.

Mr BROWN: Section 93A of the Workers' Compensation and Rehabilitation Act deals with a definition of future pecuniary loss. It reads -

> **"future pecuniary loss"** means pecuniary loss other than that which has already been incurred at the time when the amount of that loss is required to be determined by a court,

The Government brought to this Chamber and then to the other place an amendment which sought to change that definition of future pecuniary loss to a definition which reads -

> **"future loss of earnings"** means the loss of earnings except to the extent that it has already been incurred at the time when the amount of that loss is required to be determined by a court;

The essential difference between the definition in the Act and that in the Bill is that when one assessed future pecuniary loss under the Act one was entitled to look at not only the future loss of wages but also other monetary losses that would be incurred by the injured worker. If those losses were equivalent to the prescribed amount in the Act, that opened an opportunity for the injured worker to receive damages. The amendment would have the effect that a person could go forward with a damages claim only if the future loss of the person's earnings were equivalent to the prescribed amount. Let us take an example of a prescribed amount of $100 000 where worker B could show that he had a loss of wages of $80 000 and a future loss for other reasons of $30 000. Under the definition in the Act, that worker would be entitled to seek damages and take the matter forward because he could pass the appropriate test. However, under the Minister's proposal, that injured worker would not be entitled to sue for damages because his future loss of wages was only $80 000 and not $100 000. The worker could not take into account other losses incurred as a result of the injury.

That amendment was not drafted to indicate that this was an appropriate way to treat injured workers. The amending Bill was designed to shrink the gateway to make it much harder for workers to qualify for damages. Of course, the other place disagreed with that and sought to delete the offending words and, hence, retain the current test. When one considers the history of the amendments introduced by the Government, one notes the attack on the benefits available to injured workers, and this is a continuation of that attack.

Ms ANWYL: We are debating something that has been the subject of a ruling in the other place. However, we have a Minister who does not want to enter into any debate, notwithstanding the serious matters before us.

Let us be clear about the people affected most by this refusal to accept the disallowance in the other place. We are talking about reducing the rights of a class of people to claim compensation for injuries they suffer at work. The people affected most by the narrowing of the definition of pecuniary loss to one of future loss of earnings only are those who earn the least; that is, people on low incomes will find it most difficult to satisfy this threshold test. Those on low wages, whether they be average weekly earnings or less, should be entitled to recompense of future medical expenses they incur as a result of injury at work. Of course, on a low income they are least able to afford medical expenses over and above the prescribed amount in the legislation. It is important to recognise that those who will be most disadvantaged by a lowering of the threshold are those on low annual salaries. That would include part time workers and casual employees. It would also include most people in the low to lower middle income category.

Even within the current threshold the law is inequitable when applied to individual injured workers. Workers earning the equivalent of a parliamentarian's salary will be able to establish that they can earn over the threshold of $100 000 much more easily than someone earning $20 000 per annum. I often say that we deal with issues in a rather rarefied way and perhaps forget that many people in the community subsist on part time earnings, notwithstanding that they are seeking further employment.

It is very important to recognise the effect of narrowing the test from the wider pecuniary loss, which would take into account having to pay for medical treatment. Members might not know that orthotic insoles required when one has an injured foot cost about $400. That is a simple example of the expenses that will be removed from the test of future economic loss. It will be a narrow test of wages lost as opposed to all the incidental expenses incurred as a result of the injury.

I find it incredible that the Minister does not want to debate the issues tonight. The parliamentary process gives us the opportunity to do that. I ask him to amplify his comments in the second reading speech about why he did not get this right in the first place. He said that it was never anticipated that these issues would not be dealt with by that initial amendment. Why was this problem created in the first place?

Question put and a division taken with the following result -

Ayes (25)

Mr Baker	Dr Hames	Mr Marshall	Mr Shave
Mr Barnett	Mrs Hodson-Thomas	Mr Masters	Mr Trenorden
Mr Bloffwitch	Mr House	Mr McNee	Dr Turnbull
Mr Bradshaw	Mr Johnson	Mr Nicholls	Mrs van de Klashorst
Mr Court	Mr Kierath	Mr Omodei	Mr Wiese
Mr Day	Mr MacLean	Mr Prince	Mr Osborne *(Teller)*
Mrs Edwardes			

Noes (19)

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

Pairs

Mr Cowan	Mr Ripper
Mr Board	Mr Carpenter

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

Mr KIERATH: I move -

That the following be substituted for Council's amendment No 3 -

Clause 32

Page 19, lines 20 to 25 and page 20, lines 1 to 7 - To delete the lines and substitute the following -

" 32. (1) Section 93A of the principal Act is amended by deleting the definition of "future pecuniary loss".

(2) Section 93D(2) of the principal Act is repealed and the following subsections are substituted -

"

(2) A disability is a serious disability if, and only if, the degree of disability would, if assessed as prescribed in subsection (3), be 30% or more.

(2a) In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker. ".

(3) Section 93D(3) of the principal Act is amended by deleting "For the purposes of subsection (2)(a)" and substituting the following -

" Subject to subsection (2a), for the purposes of subsection (2) "

(4) Section 93D(5) of the principal Act is amended -

(a) by inserting "or" after paragraph (a);

(b) in paragraph (b) by deleting "; or" and substituting a full stop; and

(c) by deleting paragraph (c). ".

Page 20, line 8 - To delete "(1) and (2)" and substitute "(1), (2), (3) and (4)".

I wish to bring to the attention of the Chamber a couple of important issues. I will quote from a report from the Insurance Council of Australia on common law costs in the Western Australian workers' compensation system.

Points of Order

Mr BROWN: Standing Order No 308 deals with amendments that come before this House from the Council. That standing order reads -

Amendments made by the Council may be -

(a) agreed to;

(b) amended;

(c) disagreed to; or

(d) the Bill may be laid aside.

Mr Deputy Chairman, I draw to your attention to the semicolon after each point and after the word "or". It is a disjunctive. Therefore, the Chamber may do only one of those things. It cannot do more than one of those things. The Chamber has moved by a previous resolution that the message be disagreed to; and that proposition has been carried. There is no capacity within the standing orders or Parliament to deal with this proposal that the Minister has now read, because under the standing orders it is only the amendments of the Council that can be dealt with; and those amendments can only be agreed to, or amended, or disagreed to. With respect, we cannot at this point introduce new clauses when there is now nothing in relation to the Council message that is before the Chamber.

We received three messages from the Council: Message No 1 was disagreed to. Message No 2 was disagreed to, and message No 3 was disagreed to. That means that no other message is before this Chamber. Unless messages are before this Chamber, it has nothing to deal with. When messages come before this Chamber they can only be agreed to, amended or disagreed to.

My point of order is on two counts: First, there is now nothing before this Chamber; that is, a member is not entitled, under the standing orders, to move an amendment when there is nothing before the Parliament. Amendment No 3 from the Council has been dealt with. The Chamber is now functus officio. The Chamber has dealt with those matters. There is nothing before us to deal with, because we have dealt with each matter and disagreed to each amendment.

The second point is that under the standing orders of Parliament we have no capacity to introduce fresh amendments to a Bill. When the Council is dealing with a message all it can do in relation to that message, and amendments contained in the message, is to agree to them, which it has not done; amend them, which it has not done, because they have been dealt with; disagree to them, which it has done, and it has been dealt with; or it can set aside the Bill. Therefore, on two counts, on any ordinary reading of the standing orders of this Parliament, it means that this Parliament and this Committee has now dealt with the issues. We have no capacity, in my view, on any ordinary reading of the standing orders, to deal with the amendment or the proposal that has now come from the Minister.

Unless Parliament disobeys its own standing orders and unless, on the run, it makes up some other standing order, it cannot deal with this matter. This is not a matter of semantics. It is crystal clear that there is no capacity for this Committee to deal with these matters, on all the counts that I have raised.

Mr KOBELKE: The member for Bassendean has very ably outlined the meaning and intent of Standing Order No 308. I will not try to go over those arguments. However, Mr Deputy Chairman, I draw your attention to the notices and orders of the day for Thursday, 25 June - today. At page 16 of the Notice Paper, we see Workers' Compensation and Rehabilitation Amendment Bill 1997, Message No 83, which outlines three amendments. Amendment No 1 was moved, and was disagreed to - in line with Standing Order No 308. Amendment No 2 was put, and the motion was that it be disagreed to. Again, that was carried by the Minister, against our objections, and dealt with. Amendment No 3 was dealt with. The motion was put that it be disagreed to, and that also was carried against our objections, and has been dealt with.

Under Standing Order No 308, a question is no longer before the Chamber. As was pointed out very capably by the member for Bassendean, Standing Order No 308 enables this House to deal with an amendment made by the Council by either agreeing to it, amending it, disagreeing to it or having the Bill laid aside. As we have dealt with all three, the matter is now at an end. Therefore, Mr Deputy Chairman, it is appropriate that the Minister move that you do report progress, and we move on to other matters.

Ms MacTIERNAN: The standing orders are here for a very good reason: To ensure that the matters that come before this Parliament for its deliberation can be properly considered. We have a variety of standing orders that have been designed to ensure that members are given adequate notice of the matters that will be considered by the Parliament. This standing order is no exception. It is designed to ensure that entirely new matters that have never been canvassed cannot be brought in surreptitiously and improperly tacked onto a message, and thereby be considered in the same limited time frame that we have to consider a message.

The standing orders contain particular provisions with regard to messages, because obviously a Bill that is the subject of the message has already been through the House and been subject to exhaustive examination before it has gone to the Legislative Council. It is quite appropriate to then have an abbreviated procedure for dealing with messages. However, that does not extend to entirely new material that is not contained in the original Bill.

I urge you, Mr Deputy Chairman, to look not only at the technicalities of this standing order, but also to go back to first principles and consider just why we have these standing orders and why we have the protection in Standing Order No 308 that the matters which we must determine are matters on which we have had ample opportunity to take advice and to consult with the public whom we represent. It is absolutely disgraceful that a Minister of the Crown would even consider bringing into this place tonight an entirely new matter and expect us to determine it and for it to then become the considered opinion of this Committee. That is a quite improper use of the message standing order.

Mr BARNETT: It is up to this Committee to deal with any matter that it is chooses.

Dr Gallop: It is not.

Mr BARNETT: We have a set of standing orders, and the normal procedure, according to the standing orders, for the passage of legislation is that Bills come into this Chamber and go through a process, and by convention must lie on the Table of the House for one week. I remind members that grave circumstances surround this issue -

Dr Gallop: You can say that about anything.

Mr BARNETT: I listened to the Leader of the Opposition. This is a point of order that I am entitled to make. It is not a speech. This matter has serious financial implications for workers' compensation, and particularly for business and small business in this State. It is a serious matter. Therefore, the Minister has brought it to the House in this way. I remind members that we have, as is the convention and practice of this House towards the end of a session, suspended so much of standing orders as would allow us to deal with a Bill through any stage at any point. It is quite within our procedures to deal with this or any other matter from first reading, to second reading and to passage. That is the convention that has been adopted for years within this Parliament.

Mr KIERATH: I moved that the amendment be disagreed to and that another provision be substituted. The Chair said the motion would be put in two parts. Before I did this, I sought Crown Law advice. I was told that provided the amendment related to the clause being amended, the Committee could consider amendments. If it was outside the scope of the clause and tried to amend other parts of the Bill, it would be out of order.

Dr GALLOP: The logic the Government is presenting tonight would allow this Parliament, on receipt of any message from the Legislative Council, to initiate wide ranging debate on a range of topics that had even the remotest connection with the material that came from the other place. If this Government and the Parliament accept the amendment moved by the Minister as legitimate use of our standing orders, there will be chaos in this Parliament. Every time a message is returned, opposition members will feel under no obligation to restrict debate to the messages received. I send that message clearly to the Government. Opposition members will regard their position as subject to the widest possible interpretation; they will reintroduce matters for debate and talk about anything in terms of the message.

The next point for consideration is that the Parliament has a procedure: A Bill is read a first and second time during which the principal arguments are put forward. It then goes into Committee for consideration. The Committee may conduct its proceedings in interesting and innovative ways, and the Bill then comes back to the House for the third reading. Members are being denied that proper process by the use of this stratagem - that is all it is - by the Government this evening. It is working outside the spirit and letter of the standing orders, and if the Government accepts this amendment from the Minister, it is opening up total chaos in this Parliament. I make it absolutely clear that members on this side of the House will take the issue back to the Speaker if the Committee choose to go with the Government.

Mr BROWN: I would like to respond to the comments made, as it is my point of order.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): The intention of points of order is not to engage in debate across the floor but to address the Chair with a particular point of order. The Chair has heard five members speak on this point of order and it is in a position to make a ruling.

Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): When moving this amendment, the Minister moved to disagree with the Council's amendment with a view to substituting particular words. That is deemed to be one amendment, although it must be enacted via those two procedures.

Dr Gallop: He has done it again.

The DEPUTY CHAIRMAN: Leader of the Opposition, please. The Chair is making a ruling.

Mr Brown: This is unbelievable.

The DEPUTY CHAIRMAN: I formally call to order for the first time the member for Bassendean.

Mr Brown: This is not worth the paper it is written on.

The DEPUTY CHAIRMAN: I formally call to order for the second time the member for Bassendean.

Mr Brown: Unbelievable!

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I conclude by saying this amendment needed to be enacted via two procedures, and point out that the Chair is satisfied with the way this amendment has been proceeded with.

Dissent from Deputy Chairman's Ruling

Mr KOBELKE: I move -

That the Committee dissent from the Deputy Chairman's ruling.

The DEPUTY CHAIRMAN: I have been advised to draw to the member's attention that if he is dissenting from the Chair's ruling, it must be in writing and it is not open to debate.

Mr KOBELKE: Can I do that now or must we go back to the full House?

The DEPUTY CHAIRMAN: I will need to report back to the full House in order for that to take place.

[The Speaker resumed the Chair.]

The SPEAKER: I am prepared to listen to the substance of the dissent.

Mr KOBELKE: I doubt whether I can cover them as ably as the member for Bassendean when in Committee but I will attempt to cover the main issues. I draw Standing Order No 308 to your attention, Mr Speaker. It requires that amendments made by the Council may be agreed to, amended, disagreed to, or the Bill may be laid aside. The standing orders provide that it must be one of those four provisions, and not two of them at the same time. The Committee cannot do a range of other things. With a message from the Council, the Chamber must agree to the amendments, amend the amendments, disagree with them or lay the Bill aside.

Page 16 of today's Notice Paper contained the message from the Legislative Council outlining three amendments. The Minister moved that amendment No 1 be disagreed to, and we divided and the Minister's motion was carried. The first amendment was dispatched under Standing Order No 308(1)(c). We then dealt with amendment No 2. Again the Minister moved that the amendment be disagreed to, and that was carried on a division. That amendment was dealt with under Standing Order No 308(1)(c). The Minister then moved that amendment No 3 be disagreed to, and the motion was carried. It also has been dealt with.

It is not open under the standing orders of this House then to do something else. That would be to tear up the rule book. Unfortunately, this Government has a record of trampling on conventions, setting aside the standard practice of this Parliament and breaking the rules. It cannot do so time after time. That will happen if you, Mr Speaker, uphold the Deputy Chairman's ruling. I do not wish to cast any aspersions on the Deputy Chairman. Anyone in his position had to make a ruling, which he did. However, the evidence which we present indicates that he was wrong.

Standing Order No 308 does not allow us to move a motion which disagrees with an amendment, and then do something else. The Minister circulated only today his proposal regarding message No 43 on the Workers' Compensation and Rehabilitation Amendment Bill. I have mentioned what the Minister set out to do with amendments Nos 1 and 2, and I now move to amendment No 3.

The Minister passed around a piece of paper which said "That the amendment be disagreed to and the following be substituted". We had an attached page containing words to be substituted. I need not go through that wording for the purposes of this debate. The recommendation of the Deputy Chairman was that the motion be split. That would be the right procedure if one were moving to delete and to substitute. However, the Minister attempted to disagree and substitute. The Minister had his drafting wrong. It is not open to this House to disagree and then to seek to substitute or amend. It cannot be done. The Minister tried to do something which is totally outside the standing orders of this Chamber. One cannot disagree, and upon having had that disagreement carried, go back for a second bite. If the Minister intended to change amendment No 3 and place something totally different in the Act, by riding over the proper processes of Parliament and sneaking through in the dead of night a major change without countenance, he can bear the subsequent political odium. However, he got it wrong. He did not attempt to do it within the standing orders of this place. He did not seek to take out part of the amendment and make the substitution. His wording was that the amendment be disagreed to. That matter was dealt with and, under Standing Order No 308, was complete.

At this stage, the Workers' Compensation and Rehabilitation Amendment Bill simply requires an appropriate message, determined through a Committee of Reasons, to be sent to the other place. It is no longer possible in our standing orders for this Chamber to do anything further with the message from the other place. It has been dealt with and that is the end of the message.

Mr BROWN: Mr Speaker, I draw your attention to Standing Orders Nos 307 and 308. Standing Order No 307 reads -

> The consideration of all amendments made by the Council in Bills, which shall have first passed the Assembly, shall be in a Committee of the Whole House.

Standing order 308 provides for action that can be taken when the amendments come back to the Committee. The Committee can agree with an amendment, it can amend an amendment, it can disagree to an amendment, or the Bill can be laid aside. You will note, Mr Speaker, that the third item refers to "disagree, or". The drafting is clear in that the Committee can do one of those four things; that is, it cannot do more than one.

The Committee was faced with three amendments from the Council. Debate was held on all three amendments separately and on each occasion the Minister moved that the amendment be disagreed to. Each motion to disagree was carried by the Committee.

Once the amendments have been either agreed or disagreed to, that is the end of the matter. Amendments can be amended but there was no proposal before the Committee to amend any of the amendments. The Committee had a proposal only to disagree to each of the three amendments. After the third amendment was disagreed to and voted on, the Minister sought to move an amendment.

A number of us raised a point of order that the Minister could not move an amendment because nothing was before the Chair. The only matters before the Chair, the three amendments from the Council, had been dealt with.

On two counts the Opposition says that once that third decision was made, the matter was over because under our standing orders the Committee can do only one thing; that is, either agree or disagree, or amend, or lay on the Table of the House. I emphasise "or".

The Committee has dealt with the Council's message appropriately. There is now nothing before the House. The Chairman made a ruling that he would allow the Minister to move his proposal, which ruling was dissented from. He would allow that because the Minister originally said he wished to move that the proposal from the other place be deleted and other words put in its place. The Deputy Chairman ruled that because the Minister said that, the Committee could deal with the matter. Mr Speaker, the ruling is wrong because it does not matter what someone said he would do initially. What matters is the motion that was actually moved.

The previous chairperson - the chairperson who was in the seat before the chairperson with whose ruling we disagree - invited the Minister to split his proposal in two parts: Firstly, to move that amendment No 3 be disagreed with; and secondly, to do whatever else he wanted to do. That is true; the chairperson invited the Minister to do that. The chairperson is entitled to make that suggestion; and the Minister is entitled to pick up a suggestion to move that the amendment be disagreed with. That is what the Minister did. However, that cannot be interpreted as being the matter that was before the Committee, given the Minister's original proposal, because all that was before the Committee was the motion that the Minister moved, not what the Minister was thinking about, not what he might have started off doing, but what he actually did.

What you are faced with tonight, Mr Speaker, is this: The Committee passed a resolution on each of these three amendments. The resolution that it passed on each of the three amendments was that the amendment be disagreed with. In my view, it is impossible to read the standing orders and to contort them so as to say there is now something new which is before the Parliament, because under the standing orders one cannot move amendments out of the air. All one can do, under the standing orders, in dealing with amendments from the other place, is deal with each of them in the way that I have said. Once the amendments of the other place are dealt with in one of these four ways, that is the end of the matter. One cannot reach back in time and say, "Had the Minister moved what he was originally going to move, there would have been power for the Committee to deal with that matter." The fact is, that did not happen.

What is at stake here is whether this blue book actually means anything at all; whether this blue book is simply - as a friend of mine said about rules - "for the adherence of fools and the guidance of the wise". In this Parliament we have a set of standing orders and, presumably, it means something. According to history, these words written in this book, as they have appeared from time to time, have been contorted, stretched and reinvented to determine their meaning. However, Mr Speaker, if these rules are to be upheld, there is nothing in the English language to allow us to contort or concoct a meaning to these words, if they are applied in their ordinary sense, to allow the Minister to do what he did.

In my view this is not a difficult point of order. The rules here are not ambiguous; they are clear. The Minister can tell members, from the studies in law he did a few years ago, that if the words are clear and not ambiguous, we apply their ordinary meaning. We do not contort them, or reach behind them to try to find a meaning, which is not there, to suit the occasion. If we are to apply the rules, we read them and ask whether they are clear and precise. The rules in relation to this matter are clear. The golden rules of interpretation must be applied here if this blue book is worth anything. If this blue book and what is contained in it mean a cracker, Mr Speaker, you will overrule the Deputy Chairman's ruling and rule out of order the amendment the Minister wishes to move.

Mr KIERATH: The amendments moved in my name in writing have been developed by parliamentary counsel. I sought Crown Law advice and ended up getting Crown Counsel's advice.

Mr Graham: Table it.

Mr KIERATH: I do not have it with me.

Dr Gallop: Do you know the difference?

Mr KIERATH: Yes, I do. That advice said that if a clause is being amended, it could be amended in any fashion provided I did not go beyond the clause. I indicated what we wanted to do and the words that came back to me were drafted in this vein. At the time, I sought both to move that Legislative Council amendment No 3 be disagreed to and the following words be substituted. As is quite often is done in this place, the Deputy Chairman separated what I sought to do into two motions; one being to disagree with the amendment in this case, and the second being to substitute certain words. That manner is practised widely in this place. In fact, some amendments on the Notice Paper in the other place did exactly that: First, the words were deleted; and after that, other words were substituted for them.

Mr Kobelke: Delete, not disagree.

Mr KIERATH: Let us go to the green pages at the front of the rule book. The word used when referring to amendments from the other place is "disagree" not "delete". It is a longstanding tradition of this House to use those words when dealing with amendments from the other House. As I say, I sought extensive legal advice on this matter. I moved both to disagree and substitute the following words, and the Deputy Chairman made the decision to put the questions in two parts.

Mr BARNETT: We should step back and look at what is happening. The Opposition seems to put great store on Standing Order No 308.

Ms MacTiernan: It is the relevant standing order.

Mr BARNETT: It makes it clear that certain options can happen to a message from the Legislative Council: This House can agree to it, amend it, disagree to, or lay the Bill aside. The Opposition's entire argument depends on the fact that those things are mutually exclusive. From the outset, in circulating his amendment, it was very clear that the Minister's intent was to seek to amend the amendment from the upper House with his proposed changes. The Deputy Chairman understood it; members understood perfectly the intention of the Minister. The argument of the Opposition is simply that these are mutually exclusive. They are not. The standing order says that the amendment can be agreed to, amended, or be disagreed to. The Minister was setting out to amend it. That was his intent.

We do not have to be slaves to the standing orders in a strict, technical sense. Members opposite are trying to find a technical contrivance to terminate this debate, because it would relieve them of their responsibility of either agreeing with what the Government is seeking to do, to provide relief for small business on workers' compensation, or otherwise. They do not want to have to make a decision in this House. This is a technical contrivance to terminate the debate and prevent the Government from providing relief to small business.

Members opposite are relying on the presumption that these components are mutually exclusive. They are not; they are saying that one can agree, amend or disagree. The intention of the Minister was to amend.

Ms MacTiernan interjected.

The SPEAKER: I have listened to members' comments. I shall now leave the Chair and consider the matter. I will return on the ringing of the bells.

Sitting suspended from 9.15 to 9.58 pm

Speaker's Ruling

The SPEAKER: I have considered the matter raised on the dissent from the ruling of the Deputy Chairman of Committees and especially Standing Order No 308.

I note that there are several instances of this in the past, and refer members to 1990 when there were many Bills the subject of disagreements between the Houses. In particular, I note that the Tobacco Bill 1990 and the State Employment and Skills Development Authority Bill 1990 had substituted and consequential amendments agreed to, with the latter Bill having some Council amendments agreed to, other amendments agreed to subject to further amendments, some amendments disagreed to, some amendments substituted, and further consequential amendments added.

When Standing Order No 308 (1)(a) refers to the amending of Council amendments, that includes a substitution of one amendment for another.

I do not intend to vary the practices of the House in this respect, and rule that the Deputy Chairman of Committees was correct when he ruled that one amendment can be substituted for another, and in addition confirm that it is appropriate for the Deputy Chairman to direct that the substitution be put in two parts; namely, the disagreement to one amendment and then the substitution of another for it.

Committee

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

Mr KIERATH: Before the Speaker's ruling, I was commenting that basically this provision is to close the second gate and is to prevent the use of the psychological overlay to distort the first gate for those who cannot make the threshold of the first gate and use it as a means of overcoming it. I was referring to information in a document put out by the Insurance Council of Australia which pointed out that, when this was prepared, in March of this year, about 1.25 per cent of claims were getting through the threshold, which accounted for 34 per cent of total claims' cost. The

number of claims then was about 750 claims out of 60 000. In the document the Insurance Council warned that if the number increased to two per cent, or 1 200 claims, the common law claims' cost would increase to 54 per cent of the total cost; that is, over half the cost, if these claims were increase to 2 per cent. I can report to the Chamber that when we look at the trends so far that year - the figures are kept on an annual basis; a calendar year rather than a financial year -

Ms Anwyl interjected.

Mr KIERATH: I will come back to that in a moment. We project that the number will be 1 600, 400 in excess of that figure of 1 200. We estimate those 1 600 claims this year will consume 65 per cent of the total system costs. That is simply unacceptable. The WorkCover actuary states that the current system is out of control and unsustainable, and if common law benefits are not amended, the cost to employers will have a significant impact on employment and the competitiveness of Western Australian commerce.

Ms MacTiernan: Can I ask the Minister to table the documents?

The CHAIRMAN: We are not allowed to table documents in Committee.

Mr KOBELKE: I am surprised the Minister should try to sneak such major changes through in the dead of night when he claims his system is excellent and working well. There must be some ulterior motive. I will give some evidence of statements by the Minister. In relation to changes made in 1993, on 29 June 1995 the Minister said in this place that these changes have been a great success story. On 19 March 1996, when talking about a report that compared the workers' compensation system in this State with those across Australia, the Minister stated that the report cited Western Australia for its best practice, not only Australian best practice, but international best practice.

On 24 October 1996 in speaking to the Bill to which these amendments apply, the Minister said -

> . . . since the introduction of those amendments there have been significant reductions in recommended premium rates, now totalling 25.5 per cent on average.

If we look at the second reading of the Bill to which the amendments relate, on 13 November 1997 the Minister said -

> . . . heads of workers' compensation insurers around Australia have acknowledged it is one of the best systems in Australia and a number of those insurers want to implement it in their own State.

We have heard time and time again from this Minister that the system is the best in Australia and is working well. We find with one day's notice that we have dropped on us a major change to the workers' compensation system. It simply does not stack up. Something is going on and the Minister needs to explain it. It may be that he is covering his incompetence and mistakes, but why are we at 10.00 pm on a Thursday, the last sitting day, when we would normally not be sitting, having foisted on us major changes to the workers' compensation system? We will certainly get into the detail of that. The Minister needs to explain the haste and obfuscation we are seeing and why he has made it so difficult for the Opposition to have the facts laid out before it. The question very clearly is, what is he trying to hide? What is he trying to get away with by doing this in the dark of night?

I asked the Minister questions on the cost of workers' compensation. He gave a false answer to this place when he said that the figures were not available when clearly they were. Because of that I asked further questions. I found that when I asked the same question a second time, I got different answers on the costs and figures. What is going on in this State when this Minister gives false answers time and time again? I wrote to the Minister on 1 May 1998 as follows -

> Dear Graham,
>
> Would you please arrange for WorkCover to provide me with a briefing on the current state of the workers compensation system.
>
> I am seeking to have a better understanding of the underlying issues related to the cost overruns in the system.
>
> To this end, I request advice from an appropriate WorkCover officer who can provide assistance in interpreting the available data on workers compensation.
>
> I look forward to arranging a briefing session with your staff in the near future.

I received a letter at the end of May acknowledging my letter and advising that the Minister would write to me about it in due course. Phone calls went backwards and forwards with my asking when I could sit down and get the data. In response to one of those phone calls I was told that the Minister would like me to put in writing what I wanted to get from a briefing. I had to lay down the conditions. I was given the conditions I had to put in the letter. I wrote another Dear Graham letter on 20 May, which stated -

> Thank you for agreeing to accede to my request for a briefing on the current state of the Workers Compensation System.
>
> I am only seeking statistical information on how the system is running and therefore have no problem in accepting your conditions that all questions be factual in nature and not relate to opinions on Government policy or political issues.
>
> Similarly I have no problem in a member of your office being present at this briefing. I look forward to being able to arrange a mutually convenient date in the very near future.

Ms MacTIERNAN: I would like to hear more of these comments by the member for Nollamara because they are highly instructive.

Mr KIERATH: The member for Nollamara raised a number of points. It is quite true that the dispute resolution system of our system has been acknowledged as not only Australia's best practice but world's best practice. The major problem is simply the second gate. The member asked whether I was covering up mistakes. I will admit that under pressure from the Opposition we made the concession to put in the second gate. That was the mistake we made.

No other State in the country has a second economic gate - not even New South Wales, which has a Labor Government. No other State would entertain one. The system generally works extremely well except for what is happening with the second gate.

Dr Gallop: Why the urgency, Minister?

Mr KIERATH: I did provide the information. Members were obviously not listening. The projected figure is 1 600 claims. If that goes to 1 200, 56 per cent of the premium pool will go to common law costs. When we made the previous changes the figure was 34 per cent. Common law cases will now consume over two-thirds of the total pool. At 1 200, it will exceed 54 per cent of total costs. Therefore, if it increases to 1 600, about 65 per cent or two-thirds of the premium pool will be consumed. That is untenable. Some people in the trade union movement have come to me privately -

Dr Gallop: You always say that.

Mr KIERATH: In March I went to WorkCover and addressed the board, which includes a Trades and Labor Council representative. I pointed out that if we do nothing the system will fail.

Several members interjected.

Mr KIERATH: I have been approached by members of the trade union movement in the past two weeks. They said that something must be done. One thing that stands out against any other scheme in Australia is the second gate.

Mr KOBELKE: The figures and the issue that the Minister raises are important, and I hope we will move on to deal with them. However, the point I wish to continue making is that this Minister brought this in without due notice and he has refused to provide a prompt response to my request for detailed information. When we talk about the figures, we must keep the mind the words of British Prime Minister Disraeli: Lies, damned lies and statistics. We do not know which figures to believe. The Minister has given different answers to the same question when it is put on notice, not once but several times.

I asked whether I could meet with the authorities who have the figures. It has taken two months to get approval for a meeting. Three weeks ago in this Chamber I spoke privately to the Minister and asked what he intended to do about the amendments on the Notice Paper. He would not answer. Three weeks ago on the floor of this Chamber the Minister would not give a straight answer about how he would proceed. At the last minute he is trying to get us to wear totally unacceptable changes that have not been debated in this Chamber.

When we asked for the figures so that we could work out the extent of the problem and how we might agree to some changes to address it, he provided a range of figures that do not make sense. Members of the Opposition will not accept the figures until we have had a chance to examine them. Clearly very important facts underlie these figures and we must understand them. The Minister has a habit of misrepresenting the facts when he uses figures. His remarks are unbelievable. Anyone who has had any experience of the Minister would not believe a single word he says. He cannot provide honest and truthful answers to questions on notice. When I ask for a briefing I must wait two months. When I ask him questions he will not answer; but now he says that we have a major problem that requires this matter to be rushed through Parliament on this last sitting day. It does not stack up.

The CHAIRMAN: Order! The member for Nollamara is making some points, but we are dealing with an amendment. I have been listening to what he has been saying, and I would now like him to address the amendment.

Mr KOBELKE: I move now to the supposed problems for insurers, created by the second gateway. It is very difficult to quantify the extent of the problem. I hope to have an opportunity later to address some of the factors involved. However, we must determine the most effective way of fixing the problem. We cannot do that until we have the facts to determine the exact nature and extent of the problem. We do not have that information. The figures presented are just one aspect of the problem. We need all the figures and the time to talk to the players in the industry and those who represent injured workers, so that we can form an informed opinion about the problem and the efficacy of the supposed solution. We do not want to add to the problems by accepting this knee-jerk reaction by the Minister and agreeing to the amendments that he wants to incorporate in the message.

If it is such a problem, why did we, a few days ago, agree to a taxation Bill introduced by the Treasurer which adds an extra $20m to the cost of workers' compensation? In his Budget and allied Bills, the Treasurer has increased stamp duty applicable to workers' compensation premiums from 3 to 5 per cent. In his speech, the Treasurer did not say what the total would be. He said that the total take on insurance policies would be increased to $30m. I used the amount of $20m as an estimate. Perhaps the Treasurer or the Minister can tell us what will be the increased cost of workers' compensation premiums due to the tax hike on stamp duty? We talk about the added burden on insurers, and the associated cost, when this session we have put through a Bill to add $20m -

Mr Court: The $20m is your figure.

Mr KOBELKE: The Treasurer's figure is $37m for stamp duty on general insurance and on workers' compensation premiums. Stamp duty on workers' compensation premiums would increase from 3 to 5 per cent. It appears to me that the $20m is about the correct figure.

Mr Kierath: The Treasury estimate is an increase of around $6.5m. The member's figure is a total overall figure, for the whole insurance -

Mr KOBELKE: The $39m is the total.

Mr Kierath: My advice is that the effect on workers' compensation premiums would be $6.5m.

Mr KOBELKE: Let us do some simple arithmetic: If stamp duty on workers' compensation premiums moves from 3 to 5 per cent, that is a 2 per cent increase. That means that if $6m is the supposed increase, and we multiply that figure by 50, it totals $300m. Again, this is deceit from the Minister! He knows that the total is $400m to $500m -

Mr Kierath: Stamp duty is not applied to self-insurers or to the Government.

Mr KOBELKE: The money going to common insurers is $400m to $500m; it was $400m in 1996-97 -

Mr Kierath: The member is showing his ignorance. It is only that part of the market that is subject to stamp duty. Self-insurers are not subject to stamp duty, nor is the Government.

Mr KOBELKE: Very often we get half the truth from the Minister. He has keen ambitions here. We have a real problem with the Minister's answers. We have been told that it is a $37m increase, but talking to people in the field we are told that the figure is in the order of $20m. We will pursue that later and ascertain the actual amount. Nonetheless, it is very clear and major added burden on the workers' compensation system. This is at a time when the Minister is claiming that we need to take extraordinary action at this ridiculous time in the parliamentary session in order to fix a problem which the Minister is compounding with his increases in the stamp duty on workers' compensation premiums.

Ms MacTIERNAN: The Minister has advanced the argument that some sort of financial crisis exists within the insurance industry that requires this amendment to be dealt with in this extraordinary manner. The Minister has not provided any member on this side of the Chamber with any documentation. We contrast the behaviour of this Minister with that of so many Ministers who come into this place and are prepared to provide information. All we have received from this Minister -

Mr Kierath: I gave you the actuarial report.

Ms MacTIERNAN: When?

Mr Kierath: Earlier this year.

Ms MacTIERNAN: It was not in the context of this major change to workers' compensation.

Mr Kierath: The finding in the actuarial report is that the removal of common law access through the second economic gateway is the most practical and effective option of controlling common law costs.

Ms MacTIERNAN: The Minister has flashed around a series of graphs that we are supposed to look at and

understand. The Minister has moved this amendment and expects us to deliberate on this matter on his say-so that a major financial crisis exists within the insurance industry because of this problem. As the member for Nollamara has pointed out, that runs absolutely counter to all the claims that the Minister has made in numerous press statements and in the numerous opportunities that he has taken to answer dorothy dixers in this place about how successful his scheme has been. The Minister did not give us the opportunity to see that document at close quarters. He held it up and said, "This is the document that proves it." That document showed, as I understand it, because it was very difficult to see the document from here, that the percentage of common law claims in the total compensation pool has increased.

However, as we have been endeavouring to tell the Minister for some years, that is the result of the Minister's bloody mindedness with regard to partial redemptions. The Minister has steadfastly refused to recognise that some of the people in the workers' compensation system are permanently but partially incapacitated, and those people should be given the opportunity to redeem their claim. This Minister does not like that notion. It offends some sensibility of his that a worker who has been permanently but partially incapacitated should be able to be paid out and get out of the workers' compensation system and on with his life.

The figures in this graph that the Minister has flashed around tonight indicate that between 25 per cent and 50 per cent of all the common law claims that the Minister argues are the cause of the problem are devices that have been used by the insurers to effectively discharge people who are permanently but partially incapacitated in order to get them out of the system and off the books. Those people are an absolute administrative burden for the insurers; and, of course, those injured people also find it very debilitating to stay in the workers' compensation system. Therefore, we have this coalescence of interest where the insurers want to get rid of those injured workers, and those injured workers also want to get out of the system. Because this Minister has some absolutely pathetic ideological problem with people being paid out for injuries that they have incurred in the course of their employment, he has created this problem to which he is now giving us a fresh solution.

The Bill should go forward as it is, because it reinstates partial redemptions to some extent, and then we can see whether there is still a problem. These amendments can then be considered again.

Mr KOBELKE: The Bill to which these amendments relate was introduced in 1995, substantially in this form, and it was not proceeded with by the Minister. It lapsed on the prorogation of Parliament and was reintroduced in 1996. Its progress has been slow. It has been left to languish, but now the Minister is trying to make such major amendments that it will not be passed in this Parliament. The Labor Party and the two other minority parties in the Legislative Council at this stage have the clearly stated position that they will not accept the amendments being debated. That means the good measures contained in the original amending Bill will not be enacted.

As the member for Armadale said, one of the key components is the reintroduction of redemptions which the Minister removed in amendments to the Act in 1993. The figures that should be examined are important to give some idea of the extent to which the Minister's amendments in 1993 are responsible for the problems currently being experienced by the insurance companies. When the Minister denied the avenue of redemptions in the amendments to the legislation in 1993, insurance companies approached injured workers who were receiving weekly payments, for which the administrative costs exceeded the value of the payments, and suggested that they use section 93D as a common law claim to get them off the books. Previously, they would have been redemption claims but they swapped to common law claims. However, they were not common law claims within the definition of section 93D. I have been told by a number of lawyers that the insurance companies offered to pay legal costs to enable people to make claims under section 93D, told them the claims would be registered, and settled out of court for amounts between $40 000 and $50 000, well below the minimum required - the prescribed amount is in excess of $100 000. That is all lumped into the huge blowout in the common law claims.

If the Bill is allowed to pass and the Government reinstitutes the redemptions, it may remove much of the problem. The figures on which to judge that are not available. It might result in a minor reduction or substantial reduction in the number of common law claims. Members do not know because they have not had sufficient time for proper briefings or to go through the figures in detail.

The Minister for Labour Relations finds it impossible to admit his mistakes. He made a major mistake in 1993, and part of the reason opposition members are being treated so shabbily and the Minister is trying to sneak such a major amendment through in the middle of the night, is that he is unwilling to accept that his removal of redemptions was wrong. I am not saying the Minister did not have good intentions. He wanted to provide the maximum opportunity for people to undertake retraining and rehabilitation. I know he genuinely held that belief, but he got it wrong. He was told by members on this side of the Chamber that the system, with all its interests and competing forces, would find some other way if the redemptions were removed.

That has happened. It may be that a major part of the blowout in the second gateway is abuse of the system by

insurance companies using it for redemptions. It could be that when that transfer-over occurs - that could be up to 50 per cent of claims, according to the Minister's figures - the net saving could be minimal. I do not know, but it has the potential for major savings. In trying to rush this through the Minister is not giving members the opportunity to look at the figures carefully and to determine whether that is a part of the problem. If it is, it should be addressed in a different way. What the Minister is doing today will kill the Bill.

Ms ANWYL: Why is this legislation being brought in today with only one day's notice to the Opposition? The Minister is trying to contain the political damage that will inevitably occur to his Government as a result of this change. We know that the legislation probably will not pass through the other place, so one must ask whether the Minister has thought this through. The Minister has had that actuarial report since March this year.

Mr Kierath: Yes.

Ms ANWYL: It is now late June and the Minister has brought this legislation to this place with one day's notice to the Opposition. The Minister has failed to contain the damage about which he says he is so concerned. The Minister has had many months to come up with a solution. The Minister informed this Chamber that the actuary recommended that the second gateway be disposed of. If that is the case, the Minister cannot claim credit for having dreamed up this legislation. The Minister followed the actuary's recommendation. The Minister cannot claim that it has taken three months to come up with a solution. That is irresponsible government and it is the Minister's responsibility. There will be several months' delay before this problem can be further resolved.

It is important to note what the Minister has done by a sleight of hand.

Mr Kierath: I gave your side a copy of actuary's report several months ago.

Ms ANWYL: I accept that. The Minister has had the report for several months and brought this legislation to the Chamber only today.

Ms MacTiernan: Why did you not move this amendment in the other place?

Ms ANWYL: The Minister was in a position to do that.

Mr Kierath: Once we received the actuary's report in March I addressed the Workers' Compensation and Rehabilitation Commission. I warned all the players about this then. I was trying to get the Trades and Labor Council to take a more responsible attitude.

Ms MacTiernan: Were we there?

Mr Kierath: The commission that has statutory responsibility for workers' compensation. I wanted that body to express a unanimous point of view. In the end we could not get a unanimous point of view, so it made a majority decision.

Ms ANWYL: The only reason the Minister has chosen to bring this legislation to this place is some misguided perception that it will help him to contain the political damage to the Government as a result of this atrocious decision to rob workers of their rights.

The Minister has done this, in a sense, by sleight of hand. We were going to reduce the pecuniary loss definition to future economic loss. That would have penalised low income workers most of all. Instead, the Minister has abolished all pecuniary loss in the future. He has thrown out the baby with the bathwater, and that constitutes robbing injured workers of their rights. The Minister has not satisfactorily answered why he did not provide the Opposition with some detail of this so-called crisis in March when he was made aware of it. The Minister must explain to the insurance industry why the legislation cannot go through in an appropriate fashion. This will not pass through the other place and will not be resolved for a matter of months. The Minister must accept responsibility for that.

The Minister has not explained why at least 25 per cent of current common law claims relate to a de facto way of resolving partial redemption problems. Indeed, the Minister is largely responsible for the blowout in rates of workers' compensation payments because of the impact of workplace agreements. Workers were previously entitled to 80 per cent of the award wage. I was told by the insurance industry at a briefing today that the figure has blown out in excess of that amount as in some cases workers will receive much more. I will be obliged if the Minister would address those matters.

Mr BROWN: Tonight we debate an amendment to the Workers' Compensation and Rehabilitation Amendment Bill 1997, a Bill introduced last year. It is instructive to look at the history of this matter. I do not want to go back to the establishment of the principal Act. It starts way back in October 1995, when the then member for Wellington, as Parliamentary Secretary, second read a Workers' Compensation Rehabilitation Amendment Bill. Page 10083 of *Hansard* of that year reads -

> Future pecuniary loss: Workers who suffer "future pecuniary loss" equal to or more than the prescribed amount of $102 041 as a result of a work related disability, may elect to pursue a common law claim. The District Court recently determined that "future pecuniary loss" is much broader than the intended loss of future earnings. The Government intended to relate the future loss of earning capacity to the prescribed amount and the Bill rectifies this.

This is the clause, introduced in 1995, which the Minister seeks to amend tonight. We can see the Government's lethargy in this regard. No attempt was made by the Minister to get the Bill through that year and it lapsed. Not even early the following year, on 24 October 1996 - one year later - the Minister introduced the Workers' Compensation and Rehabilitation Amendment Bill 1996. He outlined the reasons for the Bill on page 7195 of *Hansard* as follows-

> The legislation clarifies that the alternative threshold for entry to common law is based on the worker's future loss of earnings, which is consistent with the Government's original intent. This rectifies a problem arising from court interpretations that future pecuniary loss includes such items as health care costs which were never intended to form part of this calculation.

A year later this Bill is brought in again. Parliament was prorogued. We went to the election. Where was the urgency for the Bill's passage? Nothing happened. Something must happen to the Minister's calendar late in the year. In October 1997, another Bill was introduced. If Parliament had been prorogued, as normally occurs at the end of year, it would have been the third Bill to drop off the Notice Paper. In October 1997, the Bill before us was introduced. The amendment under consideration tonight concerns exactly the same provision dealt with in the first Bill in this sequence.

We can see the Minister's lethargy in connection with this matter. The Minister was not keen to get his legislation through, unlike other Ministers who champ at the bit to get their legislation through, because those provisions, like many of the provisions passed in 1993, had to be amended. One of the provisions on which the Minister had to renege was the settlement for partial disabilities. We told him here repeatedly that they were wrong. In his belligerent way he would not listen. To his humiliation he ran around like a little mouse and introduced this Bill to repudiate the nonsense arguments he made when the original Bill was introduced. Why today, three years later, are we debating this issue in the dead of night? This is a disgrace.

Ms MacTIERNAN: The situation is even worse than the member for Bassendean outlined. When dealing with habitual criminals, police must identify their modus operandi. We have identified a very clear modus operandi of the Minister for Labour Relations. As the member for Bassendean pointed out, in October 1995 the Minister introduced the legislation that deals with this issue. Interestingly, shortly before Parliament was about to rise, Mr Neesham contacted the then member for Thornlie, Yvonne Henderson, who had been the Minister for Labour Relations and put to her that the Opposition should be prepared to agree to this legislation basically in the last week of Parliament's sitting.

The Opposition indicated to Mr Neesham that it would be prepared to agree to certain sections of the proposed legislation. However, we were given a very short time frame in which to consider the matters. We indicated that we would support the reintroduction of redemptions for partial, but permanently disabled persons. A number of bizarre clauses were included which were designed to offer some face-saving for the Minister, who had been so steadfastly opposed to these provisions. We said we would agree with their going through but we indicated that, I think, four of those provisions were controversial and we would not agree to their passing without debate, therefore we could not do a deal. The Minister indicated that he wanted to rush this workers' compensation legislation through in the last week, without debate and sign off on the whole Bill, or he would do nothing at all. We refused to do that.

The Parliament was prorogued, the Bill was off the Notice Paper, and the following year the Bill was reintroduced. We know the Minister does not get on with Colin Barnett, but we were sure that sooner or later the Bill would surface and we could debate the issues. Lo and behold at the end of 1996, I think November, shortly before the election was called and Parliament prorogued, we received the same call: The Government wants to consider this legislation at the last minute; it wants to put it through without debate in the dying stages of the Parliament.

We said the same thing. We went through the process with Mr Neesham, a very reasonable man, and indicated the provisions we would agree to, but said there were a number of provisions to which we could not agree without debate. They were too significant and would completely override any protection for contractors.

We will not do that. Once again, the Bill goes into oblivion. Then we have again tonight this absolute desire for this legislation to be dealt with at the last minute as a matter of urgency because the Minister is too ashamed to have it dealt with in the normal processes of Parliament. It is a modus operandi. In 1995, 1996 and again in 1998 we see the same scam being pulled on this Parliament, the same scam being pulled on the working people of Western Australia. The Minister is a disgrace. I cannot believe he is trying this on for the third time.

Mr GRILL: Quite often in this place we use rhetoric in a way that overplays our views; we misuse hyperbole. Therefore, when something of grave concern that I consider is outrageous comes before us, I find myself thrown back onto the same old worn out phrases like shameful and disgraceful. This is all of those things. However, unfortunately, because we use those words far too often here, they do not have the impact that one would like them to have. I do believe what is happening here is quite shameful and disgraceful and should not be happening.

This is a major amendment to this legislation. It is brought forward in this form, which is a concern to begin with. We were given virtually no notice of it. There was a briefing arranged today by members of the Insurance Council who came up and briefed some members of the Caucus. However, this is the last day of Parliament. There were 1 001 things going on today. I had five separate briefings and a luncheon arranged. The luncheon involved people from interstate. It was not something I could cancel at short notice; and the briefings took place at exactly the same time that the luncheon commenced. How were we supposed to go along to that briefing, take in the matters upon which we were to be briefed and then get some advice on them? These are not simple matters. This is not the way in which government should be run.

The Minister has not answered that question. It has been put to him tonight in a multiplicity of forms on several occasions. He has not come up with an answer. He relies on the graph which he keeps flashing around and holding up. The graph does not support any argument for bringing this matter on in this form or with this short notice because the graph shows clearly that there was a threefold jump in section 93D applications before the District Court between 1994 and 1995. That is what the graph shows. That is a clear warning that the legislation has not been working in the way the Minister thought it would work. In 1996 it went up to 837 applications; that is a fivefold increase since 1994. In 1997 it went up to 1 230 applications. There are prognostications for the rest of this year and next year.

However, on 16 October 1997, only nine months ago, the Premier said that the legislative reforms to workers' compensation introduced by this Government in 1993 had resulted in a fairer and more cost efficient system. Those are brave words. He then said that, for example, since the introduction of these amendments there had been a significant average reduction of 35.5 per cent in recommended premium rates. That was only eight or nine months ago. This quote was referred to earlier by my colleague. What has suddenly happened in the last 24 hours - we presume - that makes this particular amendment so absolutely urgent? What is it about this amendment that means we have to deal with it in this extraordinary way? There are some things that the Opposition will deal with in an extraordinary way if we are presented with a proper case, and we did that this morning.

We dealt with amendments to the Mining Act at short notice, in an expedited fashion, amendments with far reaching economic consequences for Western Australia and some deleterious economic consequences for Aboriginal people. Although we were given notice of these amendments only on Tuesday, we considered them and had time to seek some advice and, on balance, we thought it was appropriate to proceed responsibly in an expedited fashion. We do not have the capacity to put up with the sort of outrageous treatment being handed to us by this Minister at this time. What is happening here is not fair to a lot of people. If the Minister is to treat Parliament with this contempt, it will be thrown back in his face and he will not get the legislation through, and that would be very much to the detriment of a lot of people.

Mr BROWN: One can understand the need for urgent amendments when a decision is made by a court that completely changes the substance of the legislation. A year or so ago, or it might be a little longer, the court made an interesting decision on scratch lotto tickets that a person who had a ticket with three pairs had three of a kind and was a winner. The legislation was never designed to do that. The Lotteries Commission had printed millions of tickets like that. To pay out on the basis of that court decision would have meant the Lotteries Commission would not only not have made any money, but also would have had to empty the coffers of the State to pay out people who held tickets with three pairs.

Mr Kierath: What has this to do with the amendment before the Committee?

Mr BROWN: I am drawing an analogy. When court decisions are made that completely change the substance of legislation and have major ramifications for the State, as has been the case from time to time, we can understand the Government of the day fairly quickly introducing legislation, whether it be on the last day of the Parliament or whenever. The circumstance has major ramifications; it has not been predicted; and the court comes out with a decision that completely turns the legislation on its head, and the financial implications for the State or certain groups in the State can be deleterious unless the matter is resolved overnight. In this matter, is there justification for introducing this change at such a late stage, based on any court decision? First, as we have heard, the decision that has caused concern, in part, was made in 1995 and not acted upon. The second point is important. As an aside, October seems to be an interesting month for workers' compensation legislation. These amending Bills have been presented in October in each of 1995, 1996 and 1997. Perhaps at the beginning of each year, someone pencils in on the calendar that the old workers' compensation chestnut must be brought up in October.

When the Minister introduced the Bill in October 1996, in fairly gloating terms, he said -

> For example, since the introduction of those amendments there have been significant reductions in recommended premium rates, now totalling 25.5 per cent on average.

When the Minister introduced this Bill in October 1997, he said -

> For example, since the introduction of these amendments there has been a significant average reduction of 35.5 per cent in recommended premium rates.

If the rates have reduced by 35.5 per cent, I presume the pool has got smaller; the overall money in the pool must have reduced. We cannot have a reduction of 35.5 per cent without money in the pool reducing. It seems this evening we are talking about the fact that there has been a reduction in the pool of 35.5 per cent and these changes are designed to maintain that saving; that is, a shrinking of the pool.

Clearly what is being said is that people do not want to go back to the premiums the way they were because of this reduction. We have seen this reduction of 35.5 per cent and a smaller pool. Now we have demands that we change the system again because it cannot cope with the demands made on it from that smaller pool. Savings have been made on one hand of 35 per cent and on the other hand it is expected that workers who are injured as a result of negligence in the workplace should be denied an opportunity to seek to claim damages. Where is the equity in that type of system?

Mr KOBELKE: The Minister has failed to give any reason for the supposed urgency of the amendment he is trying to foist on the Parliament this evening. We are very much committed to the workers' compensation system. It is absolutely imperative that we have a workers' compensation system which looks after workers who are injured in the workplace. It is a very complex issue. It is not appropriate at this stage to go into it. Underlying it all is that we on this side of the Chamber are totally committed to having a sustainable workers' compensation system. That sustainability means that the premiums must be kept at a reasonable level and that the benefits available to injured workers are maximised. In our system, where we have private insurers, they must be able to function economically. We will make the necessary changes to ensure the sustainability of the system but we will not accept the Minister's solution to a problem that is not properly diagnosed.

Mr Kierath: It is not just my solution but the recommendation of the actuary, WorkCover and the Workers' Compensation and Rehabilitation Commission.

Dr Gallop: Who is the actuary?

Mr Kierath: Coopers and Lybrand.

Mr KOBELKE: Actuaries are supposed to know what they are talking about.

Dr Gallop: When was the recommendation?

Mr Kierath: In April.

Dr Gallop: This is June, Minister.

Mr KOBELKE: The Minister has thrown me off track but raised a very important point which comes back to the question of urgency. The Minister is telling us that the actuarial advice in April was that these changes were needed. The first we hear of it formally in the Parliament is today, on the very last sitting day. The Minister should not be a joker. He should not make a joke of the whole place.

Mr Kierath: I am not making a joke of the whole place.

Mr KOBELKE: Actuarial reports are extremely important.

Mr Kierath: The actuarial report says that the system is unsustainable and out of control.

Mr KOBELKE: I talked about sustainability. That is different from saying that this is the solution; that the Minister's amendments are the only way of solving the problem.

Mr Kierath: You do not believe the actuary and WorkCover?

Dr Gallop: We do not believe you.

Mr KOBELKE: Let me get back to actuaries. Hundreds of millions of dollars can ride on decisions based on actuarial reports. The Minister told us of an actuarial report in 1993 which said that his system would not cost anything. That actuarial report in 1993 was absolute hogwash and rubbish. We made a decision in 1993 based on

that actuarial report. Has the Minister taken action against the actuary? Is there legal action to sue him for providing a report which turned out to be totally wrong or has the Minister misquoted the actuarial report? The Minister is now saying that he has a new actuarial report which says that we must do something. I have had the actuarial report for a couple of months but we have been in Parliament. When we have the chance to sit down and study it and talk to the Minister's officers and get all the details, we will make a decision. We will do that when we have spoken to all the players, not in a half-baked way tonight. We are committed to the sustainability of the workers' compensation system. It is extremely important to the workers in this State that we should have a good stable system which provides the required measures of support. If we are to have a sustainable system and change the current system, we must talk to the players.

We must be willing to consult meaningfully and ensure that the interests of the various players are taken into account. This Government is incapable of doing that. The Opposition has been kept in the dark about the real issues. We have been aware of the froth and bubble and that there is a problem, but we have not been given an opportunity to understand the details.

The Government made changes in 1993 and the Minister gave the Opposition advice that has been proved wrong in many respects. He used an actuarial report that has been found to be wrong in substantial detail. Members on this side need time to look at the specifics to be able to sum up the nature and extent of the problem and to evaluate the possible solutions. Clearly what the Minister is putting to us tonight is not the only solution. He may judge it to be the best solution, but it is not the only solution. What the Minister is putting forward is no solution. He is saying that the injured workers should carry the burden and bear the cost of fixing up the problems he has created. That is not acceptable to the Opposition.

Ms ANWYL: The Minister is yet to come up with any cogent response to the questions raised. I note that the matter went to Cabinet and the Minister sought Cabinet approval to draft some amendments to the Act. When was that Cabinet meeting?

Mr Kierath: For final approval?

Dr Gallop: When did you go to Cabinet?

Mr Kierath: The leader knows that you go to Cabinet to get approval for a draft. When you have a final draft you go to Cabinet for approval for final printing.

Dr Gallop: When did that happen?

Mr Kierath: Are you asking about the final printing?

Ms ANWYL: When was the document that was provided to the Opposition yesterday in consideration of the Legislative Council message No 83 sent to Cabinet? It bears the fax number of parliamentary counsel and is dated 19 June.

Mr Kierath: It was approved by Cabinet this week.

Ms ANWYL: Why the delay? The Minister had the actuarial report in March and a submission from the commission in April. Why did it take so long?

Mr Kierath: Some drafting had to be done. During that time I also met with the Law Society off and on for six weeks. I asked it to be part of the solution and not the problem. In April I met with the Law Society and said that there were problems. I provided a copy of the actuarial report - as I made it available to the Opposition.

Ms ANWYL: That is the delay - the Law Society's involvement. I have the briefing notes for the Premier's meeting with the Law Society executive. According to the notes, the Minister contacted the Law Society on 4 May 1998 advising that he was awaiting its proposal for achieving the legislative intent. At that time the Law Society advised the Minister that it did not acknowledge the need to reform this section. I will be keen to get further information from the Law Society, because I suspect that in early May the Minister ruled out any further dialogue with it.

Not only does this clause remove the opportunity for workers to make claims for negligence compensation but also it makes it harder for workers to claim disability. Clause 32(2a) states that no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker relating to a physical disability.

I remind the Minister of his second reading speech on 21 September 1993 in which he acknowledged that one of the major submissions to the Government stressed that some workers who were not otherwise seriously disabled may have a disproportionately high loss of earning capacity due to the nature of the disability. He went on to say that those workers would be protected under this legislation. Obviously, since 1993, the Minister has changed his mind, because he no longer considers that a concert pianist who has lost the use of two fingers should have some

compensation when that loss was a direct result of the negligence of the pianist's employers. The Minister has removed that justification.

Mr Kierath: We are not aware of one of those cases coming through.

Ms ANWYL: I can provide hundreds of examples of goldfields' workers who have been injured during their employment in the mining industry, and who do not fit under the current legislation - let alone under the legislation once the Minister has abolished the second gateway. If the Minister wants some examples, I can provide pages of them.

Mr Kierath: I will be happy to receive them.

Mr BROWN: The amendment does not seek to contain the current premium rates. It seeks to substantially reduce premium rates. The Minister reported to Parliament in October last year that premium rates had decreased by 35 per cent. When setting premium rates, one must consider claims experience. What was the claims experience? According to the Minister's graph, 837 common law damages claims were settled in 1996. At the bottom of the graph, the source is claimed to be an analysis of the pattern of common law payments.

Mr Kierath: Look at the title. That relates to section 93D applications to the District Court. They are not necessarily paid.

Mr BROWN: What are the payments?

Mr Kierath: I am advised that it usually takes about two years before the payments are made. The graph indicates that. When the premiums were coming down there was only a small amount; but now they are starting to hike up, which accounts for the pressure that is being placed on the rates.

Mr BROWN: I understand that the insurance industry looks at claims. It does not wait for the claim to come in, and then say that a mistake was made about four years ago, and the industry increased the premiums retrospectively. They look at the claims experience; that is, what is happening. In 1997 the insurance industry knew that in 1996 there were 837 claims -

Mr Kierath: That is when they started examining the situation -

Mr BROWN: If the industry waited until then, it is a bit sloppy.

Mr Kierath: I am advised that they dropped the discount from 30 per cent to 20 per cent.

Mr BROWN: Perhaps he was not telling the truth, but when the Minister delivered his speech in October 1997 - only nine months ago - he gloated that premium rates were down 35.5 per cent.

Mr Kierath: That is right; on the rates that had been gazetted.

Mr BROWN: Those rates were set, and that took into account claims experience. The Minister cannot tell me that insurers do not know about claims. They watch them like hawks. They would know by October 1997 what had been the claims experience for 1996 and what applications had been made.

Mr Kierath: You would know, because I think you were a member of the Premium Rates Committee at one stage, that it makes its recommendations in June.

Mr BROWN: I was never a member of that committee. In May-June 1997, it would know what had happened in 1996.

Mr Kierath: The figures that I gave you had been put out by the Premium Rates Committee over that period of time. Obviously it met and set its figures in June, and it was after that time that problems occurred. It was aware of them by late 1997, and I believe that report was commissioned then, because the system started to become aware of major problems.

Mr BROWN: It would be aware of them. The Premium Rates Committee meets in the second half of the financial year, which is the first half of the calender year, and it goes through its processes and looks at the claims experience and those sorts of things; and unless all the members of that committee were asleep, they would know what was happening with regard to applications for damages claims. It is all on the Minister's graph. The committee knew that was the case, but notwithstanding that, it set the premium rate at a reduction of 5 per cent. Who is being negligent here?

Mr Kierath: Did you read the report of the Premium Rates Committee?

Mr BROWN: I am going on the Minister's graph.

Mr Kierath: When it set the figures, it warned of a potential problem.

Mr BROWN: It is a bit like a supplier saying, "I may go broke. I will put the price down by 35 per cent"!

Mr KOBELKE: Why the urgency?

Mr Kierath: When you look at those numbers -

Mr KOBELKE: Is the Minister telling us that he knew this back in March?

Mr Kierath: I knew there were problems in March. I addressed the commission in March and asked it -

Dr Gallop: Why was the legislation not brought in at that time?

Mr Kierath: Because I was trying to get the commission to reach unanimous agreement around the table.

Dr Gallop: This is the last day of the Parliament!

Mr Kierath: I tried to get cooperation and consensus, but in the end it could not deliver.

Dr Gallop: You are concealing something, Minister!

Mr Kierath: It took a majority vote. Since then, we have been preparing to do something, and then in the past month we got examples of the premium hikes for people, which were exorbitant. As I said, some members of the trade union moment told me that if something was not done, the system would fall over; what is what I warned them about in March.

Mr KOBELKE: Which members?

Mr Kierath: I will not tell you. That is all I am saying. You might not like the explanation, but you asked me for the explanation, and I am giving it to you.

Mr KOBELKE: It does not stack up. The Minister is trying to paint the picture that he was the little boy with his finger in the hole in the dike. He knew that this massive financial cost was about to flood the nation, but he did not want to let the Premier know about it and he did not want to take it to Cabinet. It was a problem for which he was responsible, but he could not handle it; it was too big for him. He had his finger in the hole in the dike, and he was trying to stop the flood, and it was not until last week that the flood reached Cabinet and a decision had to be made.

Mr Kierath: I think I briefed Cabinet in April on the position.

Mr KOBELKE: It was not until last week, I think the Minister said, or this week -

Mr Kierath: No. As you know, you go to Cabinet, you get approval to draft, you do the drafting, you work out the situation, and you get it to print.

Mr KOBELKE: This is sophistry. The Minister could have spoken to me three weeks ago if he had this big problem and said that we needed to do something about this second gateway. The Minister did not do that. I asked him about the Bill, and he would not answer me. The Minister has kept this under wraps, for whatever is his weird, strategic reason, and has left it until the last minute.

Let us go back over the history of these changes to workers' compensation, because they are pretty sinister in some respects.

Mr Kierath: With due respect, are we talking about a clause or a second reading debate?

The CHAIRMAN: Member for Nollamara, we do need to address the amendment.

Mr KOBELKE: We certainly do, and we are addressing it very well, but I accept your guidance, Mr Chairman.

The CHAIRMAN: It is the Committee stage. Let us stay with the amendment.

Mr KOBELKE: The 1993 amendments were brought in for a number of reasons, but a key reason was that the Government wanted to privatise the State Government Insurance Office, and that privatisation process was held up until the Minister could get his 1993 changes through, which we now find have created problems.

The SGIO would not have had value on the market if the Government had not fixed up some of the fundamentals in its accounts relating to workers' compensation. A key reason for the changes in 1993, which members were not told about at the time, was to ensure the Government got maximum value from the sale of the SGIO, which had a large portfolio in workers' compensation.

What is involved in these amendments? Share ramping is an offence, as is doing deals to fix up companies. Is the Government involved in a shady deal a few days before the end of the financial year? Is that the reason for the haste? Do companies have to close their books within a week, and does the Government want to get something through? If that is the case, it will not work. This whole thing will fall over because the Bill will not get through the other place. The very good changes in the amending Bill will be pushed aside.

Mr Kierath: If people vote against it they will be totally irresponsible towards the workers' compensation system in this State.

Mr KOBELKE: Why?

Mr Kierath: The way those claims are going and on the figures projected for the year, two-thirds of the premium pool is likely to go to commonwealth claims. That is a disaster.

Mr KOBELKE: It is a disaster of the Minister's making because he would not deal with people in a proper and upfront way. He has hidden the problem and he must wear it totally. If there was a solution, the Minister has sabotaged it by the way he has treated people. He will not escape.

Mr BROWN: This change being pushed through tonight by the Government will have the effect of reducing premium rates from their current low figure. It is not designed to contain costs but is about taking more money from employees who have been injured at work through the negligence of their employers. This is coldly and callously moving in that way.

If the Government were really interested in the premium pool and if it wanted to address this issue, it would calculate the amount originally put into the system to meet this type of claim, unless the Government naively believed that when this second gateway was included in the system, no-one would be paid out from it. Perhaps it was just a ruse. If that was not the case, an amount would have been set aside for the second gateway payments. The proposal tonight is not to curtail second gateway payments on the basis that the system is a bit loose and needs tightening. The Government wants to abolish it altogether. It does not want to fine tune the system to achieve some balance because certain claims are getting through the second gateway that should not, but other claims should qualify. It is not an attempt to rejig the system.

Mr Kierath: The Workers' Compensation and Rehabilitation Commission recommended removal of the second gateway as the only practical solution.

Mr BROWN: No, they did not. The Minister said it was a majority decision.

Mr Kierath: Yes.

Mr BROWN: Then it was not everyone on it.

Mr Kierath: I am saying that a lot of people were represented on it, and the commission recommended the closure of the second gateway. It is the statutory authority charged with running the workers' compensation system in this State.

Mr BROWN: We all know that some of the people on the commission represent employers who pay the premiums. If they were asked if they would like their premiums reduced, it would not be difficult for them to decide to vote for it. Others on the commission represent insurance companies. If they were asked if they would like to pay lower premiums, deal with fewer damages claims, and eliminate this from the system, it would not be a difficult decision for them to make. They would think it was a good idea. The representatives of the Trades and Labor Council, who represent the other side of the coin, the workers, would probably have some reservations about it. One does not need to be wonderfully intelligent to work that out. It is easy to reduce the cost of a workers' compensation or any other compensation system by denying benefits. One does not need to be clever to work that out. Where one does need to be clever is in managing a system to reduce injuries and the incidence of negligence in the workplace.

Mr Kierath: That is the sad thing. There has been a 21 per reduction in lost time injuries and a 30 per cent decrease in fatalities, yet costs continue to escalate. Does that not tell the member for Bassendean that something is wrong?

Mr BROWN: If workplaces were getting safer workers would not be able to bring forward negligence claims. There can be no award for negligence unless there is negligence.

Mr Kierath: They are not being judged on negligence. They are making commercial settlements.

Mr BROWN: The insurer is making that decision. The insurer can dig in its toes and take the matter to court. The insurer is considerably more powerful than the injured worker. There are not too many injured workers with $50m or $80m backing them up when they argue these matters in court. Is this designed to ensure that insurers do not go

down a certain path? It is getting more bizarre as we go down this path if the Minister is saying that this is the insurer's problem.

Mr KOBELKE: The insurers are private companies and they take their risks in the marketplace. It is strange that two days before the end of the financial year the Minister is trying to rush through a major change that will adversely affect a large number of workers, because of a problem with the private insurance companies.

Mr Kierath: If they fall over, who do you think will pick up the bill?

Mr KOBELKE: Are they going to fall over?

Dr Gallop: The Minister said "if they fall over". What is he saying?

Mr Kierath: Nothing; I was just making a point.

Dr Gallop: This is not nothing. What does the Minister mean by that statement - "if they fall over"?

Mr Kierath: I do not mean anything by it.

Dr Gallop: Are you saying they are going to fall over?

Mr Kierath: I do not know; I am not an insurer.

Dr Gallop: Tell us Minister: Are they going fall over?

Mr Kierath: Cut it out. Your member was developing a scenario.

Dr Gallop: Tell us the truth.

Mr Kierath: I am telling the truth.

Dr Gallop: The Minister is not telling the truth. That is what is going on.

Mr Kierath: I am.

Mr KOBELKE: Why did the Minister suggest that an insurer might fall over?

Dr Gallop: The Minister did suggest that; now he should justify it.

The CHAIRMAN: The member for Nollamara will direct his question to the Chair.

Mr KOBELKE: I would be interested to know why the Minister suggested a private insurance company might fall over if these changes do not go through.

Mr KIERATH: One of reasons that we are here tonight is the escalation in costs. I will quickly read the actuary's report that was presented to the commission.

Dr Gallop: When?

Mr KIERATH: This was in March.

Dr Gallop: We are checking up on you, Minister.

Mr KIERATH: Members opposite come in and out of this place. I have told the Leader of the Opposition that it is dated March 1998. I cannot help it if the Leader of the Opposition is not in this place, and when he does come in for a few minutes, he says something silly and then goes out again. I said at the beginning of debate - the Leader of the Opposition did not hear this either - that 1.25 per cent of all claim costs $140m in the past year; that 34 per cent of all claims and nine out of 10 common law claims are second gateway claims and they cost $107m; that removal of the second gateway is the most practical and effective option in controlling common law costs; that the introduction of election requirements and proof of negligence will be of minor assistance in controlling the costs unless they are stringently applied; that great care is required with both the wording and application of any legislative changes made; and that the cost impact of common law access restrictions is dependent on the definition of the effective date of change. The actuary states that the system is currently experiencing cost escalation of around $82m a year or 20 per cent; that the total system cost is an estimated $410m a year and there is an urgent need to restore balance to the cost of the system. I cannot stand around as Minister and allow the workers' compensation system in this State to be destroyed.

The Leader of the Opposition seems prepared to play politics.

Dr Gallop: He asked you questions about it and you denied him the briefing.

Mr KIERATH: He started to hypothesise about private companies doing this and that, and I jumped in. If the blowouts continue uncorrected, the problem will be massive. Nobody is able to define the cost of the blowout. We know it is huge and having a tremendous effect, so somebody must fix the system. I do not mind if the Leader of the Opposition has a different way of fixing the system. I thought members opposite, of all people, would want a strong and sustainable workers' compensation system.

Mr KOBELKE: I get worried when the Minister echoes my statements; however, he claims that we do not believe those statements.

The CHAIRMAN: The amendment is before the Chair.

Mr KOBELKE: Before we went on a tangent, I raised the point that private insurers are supposed to compete in the marketplace. It is not the job of Parliament or the Minister to take extraordinary action to look after the interests of a particular insurer unless a clear case is made of public interest. No such case has been made. I know we are dealing with a special circumstance with workers' compensation and the involvement of private insurers. Private insurers must work within the constraints of the legislation. They are bound by it. Therefore, how we set that legislation and those requirements is very important to the functioning of the system.

One aspect cannot be denied; namely, that it involves private insurance companies in the marketplace. It has been said to me for some time that insurers were discounting to an extent that was not sustainable. We have no evidence from what the Minister has said how much the problem is due to bad commercial judgment by some insurers in the level of discounts offered. They went out to get the business and discounted and created a problem for themselves. If that is part of the difficulty, should we fix that by removing what is available for injured workers? It is a nonsense, Minister.

The Government is very keen on nationalising the losses and privatising profits. If there are losses for business, this Government helps them out. We will not do that in workers' compensation. If companies have a problem, the Minister needs to tell us the problem. We will not put through legislation to cope with a problem which may have or may not have been of the companies' own making. That is the problem. We saw what was done in 1993 when a key element was to take care of commercial interests.

If the parameters are creating a major problem - probably, a case can be made for that - sort out the parameters in an open process. If the Minister refuses to do that, maybe a committee in the other place must do the job. We need all the facts set out before us so we can see how the legislation may need to be changed because all insurers have a major problem with the system. If only one or two insurers have a problem, we need not necessarily jump to their aid as it may be a problem of their own making. It is a funny form of economics which this Government runs. It is supposed to be the champion of market forces. However, when some people get into trouble, the Government fixes the problem for them. That should not be countenanced when it takes away rights of injured workers.

Mr KIERATH: I will read a letter dated 5 May from the Insurance Council of Australia -

> We understand the Government is still considering the Workers' Compensation and Rehabilitation Commission's recommendation to abolish claims under section 93D(b) of the Workers Compensation Act 1981, colloquially referred to as the second gateway to common-law.
>
> Common-law claims costs are increasing at an alarming rate and are threatening to destabilise the Western Australian workers' compensation system.

I remind members that this is the Insurance Council of Australia, not an insurance company.

Dr Gallop: What is the date of that letter?

Mr KIERATH: It is dated 5 May. To continue -

> The Minister for Labour Relations' media release highlighted that in the past twelve months the second gateway to common-law cost the system over $100M compared to the 1993 actuarial estimate of $2M.
>
> It is predicted market premium increases averaging 35-40% will be the outcome under current legislation resulting in substantial direct cost increases to employers, and indirectly to the wider community. Small business will be particularly hard hit.
>
> ICA believe it is essential financially that stability be urgently restored to the Western Australian system which in recent years has been seen as the pre-eminent competitively underwritten scheme in Australia.
>
> The attached background paper provides additional information on the problem currently affecting the Western Australian system.

I quoted from that background paper at the beginning of my comments. That letter contains the key elements. The second gateway is causing the system to haemorrhage; it is causing colossal increases. Even the member for Nollamara must know that those increases will cause loss of jobs. The cost will come off the bottom line. In all responsibility I cannot sit around -

Dr Gallop: You did sit around.

Mr KIERATH: When I received the recommendation I tried to organise it as quickly as practicable.

Dr Gallop: That claim does not stand up.

Mr KIERATH: I have read out the letter in its entirety. It says all the things I have been saying.

Mr BROWN: It is always interesting to examine the figures to see whether they follow a logical path. I refer to two documents, the first of which is titled "Workers' Compensation & Rehabilitation Commission of Western Australia Actuarial Analysis of Access to Common Law - March 1998" which is the report to which the Minister referred. At page 2 of that report the third paragraph under "Recent experience" reads -

> For 1996/97, claim payments increased by $48.3m from $326.0m to $374.3m (figures taken from the Commission's Annual Report). Insurers case estimates increased by an estimated $31.2m over this time. **This implies an increase in incurred costs of $79.5m over 1996/97 for the overall WA workers' compensation system**.

This report indicates that approximately $80m has been added to the system.

Mr Wiese: What is that on a percentage basis?

Mr BROWN: I cannot fathom the fact that in October 1996, before this financial year, the Minister is quoted in *Hansard* as saying that, for example, since the introduction of those amendments there have been significant reductions in recommended premium rates, now totalling 25.5 percent.

That is, at the beginning of the period complained of in the commission's report there had been a 25.5 per cent reduction. However, in October 1997, after the commission's analysis which showed an extra $80m had to be paid out, the Minister reported in this Parliament, for example, that since the introduction of these amendments there had been a significant average reduction of 35.5 per cent in recommended premium rates.

I am only a simple soul. However, I have a document that purports to be an actuarial report which shows that an additional $80m is required of the system for the 1996-97 financial year. That is what it says, that an extra $80m is required and the system is in trouble. Then the Minister comes into this Chamber later in 1997 saying that the system is doing swimmingly well, and the average premium has been reduced by another 10 per cent - it has actually gone down 35 per cent. Forgive me if we seem just a tad cynical about the figures quoted in this place. I do not know how the cost of the pool has gone up $80m but the premium rates have gone down another 10 per cent. How is that happening? Then, some months later, the Minister says that we have to rush through this legislation. I am interested in those figures because if one adds them up - and I do not mean by using a calculator - those figures do not comprehend, they do not make sense. Just look at them and look at the points of time that they refer to. I am just amazed at all of that.

The second point I make is the massive savings that would be made to the system if these changes go through both Houses of Parliament. This is a windfall gain. I had better put some money into some of the companies involved in the insurance industry because the shares will be going up on the Stock Market when these changes occur!

Mr KOBELKE: I wonder how many Ministers have bought shares lately.

Mr BROWN: What we see in this is a huge amount of money. Bear in mind this is from 1996 when $80m in the system will be sucked out, when there has been a 35 per cent reduction in premium rates. Therefore, another $80m will be sucked out by closing this gateway. This amendment is the best thing since sliced bread if one wants very significant reductions in premium rates. One could not get a better deal. What is more, one can go to the Minister for Labour Relations; he will agree to do it, in the dead of night on the last sitting day of the Parliament and without due warning.

When one considers the things that have been said in this Parliament and the things said in this actuarial report, is it any wonder the Minister does not want this debated in the cool light of day? If I had made the statements made by the Minister and then trotted around with this report, I would not want it to be debated; I would not want to give people any time to consider this issue; I would not want to subject it to the microscope because who knows what might come out of that? Who knows whether one might find that what the Minister told this Parliament was not exactly accurate; was not fully acquainting this Parliament with the situation. What would members do if they were

the Minister in that case? They would rush it through pretty quickly before they were found out. When one looks at this proposal one can see the significant savings that will be made in this system on the backs of workers who are injured as a result of negligence at the workplace, not their negligence but negligence at the workplace.

This report says that 90 per cent of the claims causing concern come through the second gateway. With this amendment, the Minister wants to block off the second gateway; that is, 90 per cent of common law claims. In addition to that, of course, there are also changes in this amendment which significantly narrow the first gateway. In fact, of the claims that currently can survive - as the member for Kalgoorlie said, quite rightly, thousands of workers who are injured as a result of negligence at the workplace cannot get their claims up following the 1993 amendments - about 95 per cent will now be knocked out by both removing the second gateway and narrowing the first gateway.

Where is the equity in this change? It is to say bad luck, too bad to workers who have been injured as a result of negligence in the workplace; there is nothing in the workers' compensation system or the common law for them. What does that mean? The message that goes out to workplaces in this State is that workers should not worry; that there was a concern in workplaces in this State where workers were injured as result of negligence which has now been fixed; that workers do not have to worry about that; they do not have to worry if a worker is injured as a consequence of negligence at the workplace because there is no additional payment.

Those workers will get workers' compensation payments - and nothing more. The Minister can have his "Think Safe Sam" jumping about on television screens and all those sorts of things, but his cartoon character will not be much solace to workers who are injured as a consequence of negligence at the workplace and who will be denied if the amendment is to be passed

Mr KOBELKE: I move to something just raised by member for Bassendean; that is, the changes being made to the first gateway, which were never countenanced or suggested in any way prior to being presented in the amendments tonight. Under proposed section 93D, the first gateway will allow for claims to be made for a degree of disability that would be assessed at 30 per cent or more, without going into technical details covering that. That is it. Under these amendments, the degree of disability would still be assessed at 30 per cent or more. In addition, paragraph (2a) states that -

> In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker.

Who dreamt that up?

Mr Kierath: Similar provisions were used in Victoria to stop psychological overlay from overcoming the threshold.

Mr KOBELKE: Has the Minister any evidence that is a problem in Western Australia?

Mr Kierath: We had a bit of advice when drafting that it could be a substantial problem.

Mr KOBELKE: The Minister would have to be a person without any heart at all to try to put that measure into legislation or perhaps someone who is totally ignorant of injured workers who simply turns his back on personal contact with an injured worker. Injured workers suffer a whole range of consequent conditions because of the whole change of lifestyle and the pain that is often consequent to an injury they have sustained in the workplace. The Minister is saying that the effects that may flow from that cannot be taken into account when assessing the 30 per cent.

Although the sailors on HMAS *Westralia* would not be covered by workers' compensation, they recently suffered an horrific accident which caused the death of four sailors. In ordinary workplaces workers are sometimes confronted with such situations. Workers who may have survived such a fire in the workplace, scarred by the fire and bearing the mental scars of having been in a very difficult situation, would be likely to have psychiatric conditions that flow as a consequence from the trauma of the incident. The Minister is saying that those disorders consequent to the accident are not to be taken into account. The case of a fireman who had suffered serious burns which could have fallen just short of 30 per cent was mentioned recently in the Parliament. He became incapable of doing work because of the psychiatric trauma associated with a fire. Is the effect of this provision that his psychiatric disorder and additional morbid conditions or disorders could not be taken into account?

Mr Kierath: My understanding is that if there were psychological trauma at work, that would be covered. If it results from the injury itself and someone tries to use that for the basis of overcoming the 30 per cent, that would be prohibited. If there were a traumatic event at work, I believe the person would be covered.

Mr KOBELKE: The amendment reads -

> . . . no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, and secondary to, a physical disability of the worker.

Mr Kierath: It is flowing from the injury itself and not the event at work.

Mr KOBELKE: It is flowing from something else?

Mr Kierath: I am advised that it relates to flowing from the injury itself and not the incident at work.

Mr KOBELKE: The Minister is unclear. He might like to explain that in a moment. The way I read the amendment is that it opens a minefield of interpretation by insurance companies to simply not allow what is clearly a condition flowing from a traumatic work experience contributing to the assessment of the 30 per cent disability.

Ms ANWYL: The Minister's interpretation is flawed.

Mr Kierath: That is what I was advised.

Ms ANWYL: I am sure it is flawed. If the Minister believes that he can somehow divorce the nervous shock resulting from an incident from sequelae, the Minister is wrong. The clause states -

> . . . where any mental ailment, disorder, defect . . . arises as a consequence of a physical disability of the worker.

Imagine a driller who lost several fingers on a drilling rig, as happens so often in my electorate, and was not eligible for the 30 per cent threshold. Depending on the nature of the injury to the hand, it would be less than 30 per cent. His common law claim would be out the window. If that driller went home to his wife after he had rehabilitated, the wife might divorce him because she could not stand him to touch her any more.

Mr Baker interjected.

Ms ANWYL: I have had cases where that has happened. The member for Joondalup has been very silent in this debate, notwithstanding his legal background.

Mr Baker interjected.

Ms ANWYL: Yes, because members opposite are ashamed of the travesty that is occurring. I suspect that half the members opposite do not understand what this legislation is doing. They will find out, because their electorate offices will be inundated with people who will find out about this through the media, notwithstanding the Minister's sneaky attempt to rush it through.

I will revert to my point.

Mr Trenorden: You have one!

Ms ANWYL: The member should listen because he is one of the architects of these problems.

When as a result of some gross disfigurement a person has a psychological problem, that problem will not be assessed as part of the disability. As a result of mining accidents often people cannot return underground because their fellow workers have been killed. The person who loses two fingers underground presumably would not be covered for what one might term a morbid condition, mental ailment, disorder, defect or symptom that arises as a consequence of the physical disability. I do not know what advice the Minister has; perhaps he can provide it to the Opposition.

The Minister is on the record as expressing some remorse that we have had only 24 hours' notice of this debate. If he were genuine he would provide the advice. Has it been provided to the Law Society? Of course not. Why would he give it to the Law Society? I quoted briefing notes for the Premier, which detailed what transpired between the Law Society and the Minister. If he is genuine about the fact that this will not impact on the sort of case I am referring to, I call on him to provide that detail.

Members on this side want to look at this issue in depth. We do want to offer some constructive input. However, if the Minister gives us 24 hours' notice of one of the most significant changes to the rights of workers in this State and then refuses to provide documents, he can expect the Labor Party to continue to champion the rights of injured workers. The Government is certainly not doing that.

Mr BROWN: This debate has been going on and obviously the Government does not intend to move. It is important to record a couple of matters. I refer again to the actuarial report, which, under the heading "Key findings", states that the total system costs an estimated $410m a year. Common law claims represent only 1.25 per cent of all claims by number but they cost $140m a year; that is, 34 per cent of the cost of the overall system. Nine out of 10 common

law claims are second gateway claims and they cost $107m a year. By closing the second gateway, there will be a reduction in the pool of 25 per cent.

By narrowing very significantly the first gateway, there will be a lesser draw from the pool. Perhaps 95 per cent of the $140m will not be drawn from the pool. On that basis, one would expect a further reduction in premiums of, say, 25 per cent. No doubt, in future years the Minister will gloat, as he often does, and say that as a result of his wonderful changes, the system is producing further reductions in premium rates. This will be done on the backs of injured workers. Every time the Minister gloats about savings, if these changes are adopted, it will be to the disadvantage of injured people - some of whom have been injured seriously - as a result of workplaces not being up to par and the negligence of the employer.

The Minister is determined to put these amendments through. Another point relating to the narrowing of the 30 per cent gateway is the wording of proposed subsection (2a), which states -

> In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker.

In other words, no regard is to be had to any mental ailment of a worker that arises as a consequence of a physical disability to that worker. As the member for Kalgoorlie stated, if a worker loses part of a physical function or part of his body, which is less than 30 per cent, and suffers a mental disorder as a result, and is affected directly by the loss, that person is not entitled to have that taken into account in the determination of access to a common law claim.

Mr CUNNINGHAM: I am amazed by the atrocities that the member for Bassendean has exposed. I would like to hear more.

Mr BROWN: As I read the proposed subsection, a worker in that position cannot argue that a mental ailment should be taken into account when it arises directly as a result of a physical disability that the person incurred through an accident at work. I do not know how this can be justified on equity grounds. It is beyond me how anyone who has had to deal with or to represent injured workers could come up with this cold blooded proposal. I cannot understand it.

Some orthopaedic surgeons have offices on the first floor of buildings without lifts. People are told they must see an orthopaedic surgeon or their workers' compensation will be cut off. They must climb the stairs because that is the only way to see the surgeon.

The orthopaedic surgeon then writes a report and says, "In my view, this worker is fit to work because he was able to negotiate the stairs."

That is the sort of bastardry that we are seeing in the system. That is the sort of thing that is happening to deny workers access to workers' compensation and to common law claims. Any person who has been around the system will have seen that bastardry in operation. Some members of the medical profession would not believe that a person had been injured in the course of his work if that person had been bowled over by a steamroller in front of their office! All of these charlatans are operating in the system, and all of these dreadful things are happening to people who are in no position to fight back. Those people are going before conciliation officers and review officers without legal representation and are trying to battle against insurance clerks who are highly skilled. The whole system is pitted against an injured worker who is trying to argue his own case and who is battling the injury, the pain and the anguish and has not been paid for weeks and does not know where his next meal is coming from. However, despite the fact that the system is operating to the gross disadvantage of injured workers in this State, these dreadful amendments have now come before this place and will further deny workers access to this system.

Frankly, it would not surprise me if in the dead of night in a few weeks the Minister introduced a repeal Bill for the workers' compensation Act! The only thing that would stop the Minister from doing that is that people could then go to common law. What is the next thing on the agenda? What does Dracula have for us next? The way things are going, it is pretty grim. The very last thing a person would want to be in this State under this Government is an injured worker. I have seen some pretty shameful pieces of legislation go through this Parliament. The Government is against people who in many instances cannot fight for themselves. These people are not the big end of town in many instances but are the little battlers. Many of the people who are injured are in manual jobs in the mining industry and in high risk occupations which are not highly paid. A number of nurses have received back injuries in the course of their work. I can only hope that when those injured workers hobble into the offices of members opposite, those members will have the courage of their convictions to explain why they put this legislation through and why they are proud to deny those injured workers the proper benefits that should be provided in a decent piece of legislation.

Mr KOBELKE: If any part of this amendment really shows up the total disregard that this Minister has for the workers' compensation system and for injured workers, it is proposed subsection (2a). We have seen in the way that the Minister has approached this matter that he has no regard for the Parliament. This Bill and these amendments will go nowhere. The Minister is not doing anything to help the industry. His way of dealing with this matter has determined that it will fail. There is no doubt about that. We see in proposed subsection (2a) a very clear example of what this Minister is about. This Minister has no care or regard for injured workers.
How can the Minister require as a condition of reaching the 30 per cent that a worker cannot take into account any disorder or defect that arises as a consequence of or secondary to the disability? As the member for Kalgoorlie suggested, a worker who was injured in a rockfall in a mine and had a couple of fingers crushed and who because of the trauma was never able to work in a mine again could never be considered for that 30 per cent because the range of symptoms that might flow from that traumatic event in the workplace could not be taken into account in measuring that 30 per cent.

The Government's approach is to consider only one part of a human being and not treat him as a whole person who has been adversely affected and who, for the rest of his life, will carry the physical and mental scars of an accident at the workplace. It wants determination of a person's case to be restricted to the physical injury that can be assessed following an accident. That is totally unacceptable, I assume even to some members on the back benches of the Government. If they recognise the implications of proposed subsection (2a), they will find it totally unacceptable.

That highlights very clearly the whole approach of this Minister. He has ensured that the very good changes encompassed in the amending Bill will be lost. I see no way in which a conference of managers will be able to resolve this matter. The Minister's approach has been to ride roughshod over people, and that has ensured the Labor Party, the Democrats and the Greens (WA) in the other place will reject the amendments put forward tonight.

Dr GALLOP: It is incumbent on me to clarify and explain the position of the Opposition on the legislation not only in this Chamber, but also in the other place. The Premier approached the Opposition yesterday about this very important matter, and the Opposition explained then that it would not consider such important legislation on a short term basis without consulting all the people who should be consulted, and without taking into account the points of view of all the interest groups who know something about the subject and have a contribution to make. The Opposition indicated to the Premier that the use of Parliament on such a basis was not acceptable to the Opposition. Opposition members received a briefing from the Insurance Council. I was unable to attend that briefing, but I am told by my colleagues that various options were put forward by the Insurance Council on how to tackle the problem of escalating costs for workers' compensation. The Insurance Council took the view that the position put by the Government tonight is the best solution. Nevertheless, other solutions were put forward which should be analysed and discussed in a proper forum.

I indicate that this is not the way to handle legislation. It is clear that many members on the government side of the Chamber are highly embarrassed about what has happened as a result of the approach to this issue by the Premier and the Minister for Labour Relations. It has been shown without doubt this evening that the Minister for Labour Relations has failed in his duty as a Minister yet again. He was aware of problems in the workers' compensation scheme earlier this year and, despite continuous efforts by the Labor spokesperson the member for Nollamara, proper briefings were not arranged. The Minister did not involve the Opposition in the knowledge he had about this matter in a way that gave the Opposition confidence that the Minister treats the Parliament in a genuine, bipartisan way. More importantly, if, as the Minister said, there is a crisis in this area, why did he wait until the last few days before raising it?

The Opposition is concerned that the Minister has not indicated the reason for the urgency. He knew about this problem in March or April but he did not take this Parliament into his confidence and indicate that legislation of this type was on the Government's agenda. Why has it been brought forward in the last few days of this Parliament? Has the Minister told the whole story about why the legislation has been introduced in the last few days of this Parliament?

The Insurance Council of Australia's attitude to the second gateway has been well known to everyone for many months. We deserve an answer to why the Minister introduced this legislation in the past few days.

This legislation will go through this Chamber, I assume, on the basis of the Government's majority and will go to the other place. One of two things can occur. The first is that the other place will reject the Minister's legislation; and, on the basis of evidence that has been given to the Labor Party, we will vote against it, as I hope will the minor parties. If that is the case the legislation will go to a conference of managers and unless there is total agreement it will be lost. The Minister will bear the responsibility for having lost the redemption provisions, which we were told by the insurance industry were necessary to be reintroduced into the system. The second alternative is that the Legislative Council establish a proper inquiry into this matter in which all of the interest groups can come forward. That will not only keep the legislation alive but also allow for a proper process to occur in this Parliament. That

approach will allow for a proper debate of all the issues. It is incumbent upon the government parties tonight to explain why they will not use the Legislative Council, the House of Review, to invite all the interest groups - the Law Society, the insurance companies, all of the people who are involved in this issue - to come forward and give evidence about this issue, so that we can have a mature consideration of the matters. Why would that approach not be acceptable to the Government? It is incumbent upon the Minister to tell us why the Government will not accept that approach - if that is the case. That is the one way in which Parliament can do its duty in respect of this legislation. The Minister has a choice: The first, is that the legislation will be defeated when it goes to a conference of managers, unless there is unanimity. I am sure the Minister is well aware of Standing Order No 331 which reads -

> If no agreement be reached on the Bill or other matter referred to the Conference such Conference shall be deemed to have terminated.

The Minister has created the potential for the legislation that is before the Committee to be lost forever because of his obstinacy in this issue. The Minister must tell us why the alternative of a committee of inquiry in the Legislative Council is not an option. The Opposition accepts there is a problem and it needs analysis so the facts can come forward. However, as legislators we will not accept, on the basis of 24 hours' notice, the Minister's solution. I call upon all members of this Parliament to consider the points that I am making. Why should the Opposition accept a solution that is given to us with 24 hours' notice? Why should we not consult the Law Society, the trade unions, the insurance companies and those people who know something about actuarial matters? If the Minister cannot answer that question he is hiding something from this Parliament. The Opposition believes that the Parliament deserves an answer to that question. Why is it, from the Government's point of view, that this legislation must pass in this place very quickly in the next few days or over the next week as opposed to a proper and normal consideration of the issue? The Minister must answer that question. If he is doing his duty as a Minister he must indicate all of the facts that have been brought before him, and all the representations that have been made to him which have led him to say that the Government should push this through the Parliament quickly. If the Minister does not do that he is not informing the Parliament of all the facts and he is denying the Parliament a proper basis on which to consider this issue, and he will have failed in his duty. I await with a great deal of interest to hear the Minister's explanation of why a proper inquiry into this proposal would not be the proper course of action to take.

Mr KIERATH: No-one has formally raised with me the issue of an inquiry. I will consider that. I have consulted the groups that the Leader of the Opposition mentioned over the past few months. Earlier tonight I advised that this provision was originally developed through the Workers' Compensation and Rehabilitation Commission, on which most of those groups are represented. The commission obtained an actuary's report, so it knew what it was dealing with. It knew there was a problem, so it obtained a concise definition of the problem.

The commission made a decision on the right way to address the matter. This statutory body is responsible for workers' compensation in this State. It sent the decision up to the Minister to action, and this Bill before us results from that action. I spoke to the commissioners in March, and it was April before they made a decision. Therefore, the time span has been April, May and June, which is a short time.

Dr Gallop: It is not when you know that this is the last day of the Parliament.

Mr KIERATH: The Leader of the Opposition knows it takes time to get these measures through the system. From that point of view, we have moved as quickly as we could.

Dr GALLOP: Could the Minister remind the House when he took this legislation to Cabinet?

Mr Kierath: I have given those answers. You were not here.

Dr GALLOP: I want the Minister to answer it again. When did the Minister take it to Cabinet?

Mr Kierath: I spelt out the procedures earlier.

Dr GALLOP: The Minister was told in April, so when did he take it to Cabinet?

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I remind the Leader of the Opposition to address his comments through the Chair.

Dr GALLOP: I ask the Minister, through the Chair, to indicate to the Committee when this matter was taken to Cabinet, and why it was not taken to Cabinet in April when apparently the Minister was first made aware of the crisis?

Mr KOBELKE: The Minister clearly demonstrates the problem we have with the legislation: Major changes are proposed which will clearly have an adverse impact on a vulnerable section of our community which is most in need of the protection of Parliament. The Minister cannot answer the question about the process of bringing the legislation to this place.

Mr Kierath: You know I have answered it. I will not make up for people who are not prepared to sit in the Chamber through debate.

Mr KOBELKE: We like to ask the Minister the same question twice because when he gives a dishonest answer, sometimes he gives two different answers. It has happened many times. The Minister has set out to deceive us by giving untruthful answers, and we sometimes get a different answer when we ask the question the second time. Therefore, we like to get the Minister on the record as many times as possible.

The Minister is showing his dissatisfaction with what he has said already; he does not want to trip himself up and indicate that he has misled the House again. That is why the Minister will not answer a simple question from the Leader of the Opposition. Again, he has set out to deceive us in the whole process by giving half truths and misrepresentations. That is why he is not willing to answer questions from the Leader of the Opposition.

Dr GALLOP: I have indicated the Opposition's position. We will certainly require this legislation to be subjected to a proper analysis in the upper House. It will not pass through the upper House unless it is the subject of a major inquiry in that Chamber. If the Government wants to force a vote on the issue, I assure the Minister that we will vote against the legislation. We have no choice. The Minister introduced an amendment tonight which we cannot accept on the evidence before us. We can reach only one conclusion; that is, that the Minister's handling of the legislation will have lost everything to the system. The Government has a choice; it must accept that Parliament will deal with this properly or it will lose everything. I hope that the Government gives very careful consideration to that point.

I also hope that the Minister has fully briefed this Chamber on all the issues brought before him for the necessity of this legislation. If the Opposition finds the Minister has not put before Parliament every fact and all the circumstances that led him to say we need this legislation to be passed, we will come back into this Parliament as we did over the Solomon-White affair, the building industry portable long service leave fund, the 6PR issue, the nurses dispute, the indemnity and the decision to close Mt Henry Hospital. We will haul the Minister back into this Parliament to justify why he did not reveal all the facts before him on this issue.

Members on the other side should make no mistake that they are being let down by their Minister again. They were let down as a result of the tobacco legislation where he intervened without consulting his colleagues. He has done nothing about this matter since March or April and has brought it into Parliament at the last minute. The Opposition's position is clear.

I hope members of the Government realise that, based on our knowledge of the attitudes of the minor parties, this will not get through the Legislative Council. I wonder why, in that case, the Government is pressing ahead with it. The Opposition will ensure that any proposal of this nature gets a proper parliamentary analysis before being accepted by any Labor Party members of this Parliament.

Amendment put and a division taken with the following result -

Ayes (25)

Mr Baker	Dr Hames	Mr Masters	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr McNee	Dr Turnbull
Mr Bloffwitch	Mr House	Mr Omodei	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mrs Parker	Mr Wiese
Mr Court	Mr Kierath	Mr Prince	Mr Osborne *(Teller)*
Mr Day	Mr MacLean	Mr Shave	
Mrs Edwardes	Mr Marshall		

Noes (17)

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

Pairs

Mr Cowan	Mr Carpenter
Mr Board	Ms McHale
Mr Tubby	Ms Warnock

Amendment thus passed

Report

Resolutions reported and the report adopted.

A committee consisting of Mr Bloffwitch, Mr Kobelke and Mr Kierath (Minister for Labour Relations) drew up the following reasons for not agreeing to the amendments made by the Council.

No 1.

This amendment is disagreed to as entitlement to workers' compensation benefits are determined on the basis of a medical practitioner determining the worker's incapacity for work. The issue of wholly for partially recovered does not relate to the ability of a worker to return to employment. The words "total or partial capacity for work" protect both the worker from further injury if recovered but not fit for work and the employer employing a worker beyond his capacity.

No 2.

This amendment is disagreed to as the current Act wording provides no discretion for the dispute resolution body on whether a medical dispute is, or is not, referred to a medical panel. Given some medical disputes could be minor in nature, this discretion is essential to ensure delays in resolution do not advantage either the injured worker or employer. Further, this clause includes an ability for the medical panel to determine a worker's capacity for work for the same reasons as set out in response to amendment.

No. 3.

This amendment is disagreed to because of the serious impact currently occurring to the financial viability of the entire workers' compensation system and in so doing the Legislative Assembly has agreed to the substitution of the following -

Clause 32

Page 19, lines 20 to 25 and page 20, lines 1 to 7 - to delete the lines and substitute the following lines -

32. (1) Section 93A of the principal Act is amended by deleting the definition of "future pecuniary loss".

(2) Section 93D (2) of the principal Act is repealed and the following subsections are substituted -

(2) A disability is a serious disability if, and only if, the degree of disability would, if assessed as prescribed in subsection (3), be 30% or more.

(2a) In assessing the degree of disability of a worker under subsection (3), no regard is to be had to any mental ailment, disorder, defect, morbid condition or symptom of the worker that arises, recurs or is aggravated or accelerated as a consequence of, or secondary to, a physical disability of the worker.

(3) Section 93D (3) of the principal Act is amended by deleting "For the purposes of subsection (2) (a)" and substituting the following -

Subject to subsection (2a), for the purposes of subsection (2)

(4) Section 93D (5) of the principal Act is amended -

(a) by inserting "or" after paragraph (a);

(b) in paragraph (b) by deleting "; or" and substituting a full stop; and

(c) by deleting paragraph (c).

Page 20, line 8 - To delete "(1) and (2)" and substituting the following -

(1), (2), (3) and (4)

The clauses remove the current alternative access of workers, who do not meet the serious disability threshold, to Common Law and are essential to save the workers' compensation system in this State from total financial collapse, a situation which would seriously impact on both employers and injured workers for whom the system is designed.

MR KIERATH (Riverton - Minister for Labour Relations) [12.37 am]: I move -

That the reasons be adopted.

Question put and a division taken with the following result -

Ayes (26)

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

Noes (17)

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

Pairs

Mr Cowan	Mr Carpenter
Mr Board	Ms McHale
Mr Tubby	Ms Warnock

Question thus passed; reasons adopted and a message accordingly returned to the Council.

MATTER OF PRIVILEGE

Ruling by the Speaker

THE SPEAKER (Mr Strickland): Earlier today the member for Fremantle rose on a matter of privilege relating to the disclosure of proceedings of the Select Committee into the Misuse of Drugs Act 1991. In essence, the member alleges that the chairman of the committee, in sending correspondence to the Minister for Police, has disclosed proceedings of the committee, that he was not authorised to do so, and that this therefore constituted a contempt or breach of privilege.

The House has also heard today a personal explanation from the member for Joondalup, which dealt directly with this matter, and it appears to me that there is some disagreement as to the facts. In addition, having spoken with the member for Fremantle and the member for Joondalup, there appears to be extensive disagreement as to what was intended by the committee in relation to the release of certain information and a wide gulf of interpretation as to what the facts establish from a privilege perspective.

In addition, the member for Mitchell this afternoon raised a matter which has some similar elements, and I will deal with that in turn.

The essence of a contempt of the House is that the act or omission complained of obstructs or impedes the House or its committees in the performance of their functions, or that it obstructs or impedes any member or officer of the House in the discharge of their duties, or it has the tendency directly or indirectly to produce those results.

I refer to Erskine May's *Parliamentary Practice*, 21st edition, at pages 122 to 124, which deals with premature publication or disclosure of the committee proceedings, and quote from page 124 -

> The publication or disclosure of debates or proceedings of committees conducted with closed doors or in private, or when publication is expressly forbidden by the House, or of draft reports by the committees before they have been referred to the House will, however, constitute a breach of privilege or a contempt.

If, for example, someone's action had the effect of damaging or undermining the committee system, that could readily be held to be contempt. However, as with other offences, contempts can be considered to be in a range of seriousness from minor matters to actions that are highly deleterious to the operations of the House. It is worth noting that the only body that can investigate these issues and deal with them is the House itself, and that responsibility carries with it the need to take seriously any allegation of contempt unless it is judged to be trivial.

The Speaker's task in considering a privilege issue under Standing Order 139 is limited to determining whether the case raises a significant issue of privilege. However, the Speaker is not called upon finally to determine the matter. The Speaker may also offer some advice to the House. It has been an occasional practice of this House to establish a committee of privilege where the issue raised appears to be significant but the facts are not clear, or the issue warrants further and better consideration. If the Speaker considers that further consideration is warranted, precedence will be given to any motion which may be moved in relation to the matter.

Since the mid-1980s, the House of Commons has adopted a procedure whereby allegedly improper disclosure of committee evidence or proceedings is examined by the committee itself. The committee concerned seeks to discover the source of the leak and to assess whether it constitutes, or is likely to constitute, a substantial interference with its work, with the select committee system or with the functions of the House.

If the committee considers that there has been or is likely to be such interference, it reports to the House accordingly, and such a report then stands automatically referred to the Committee of Privilege. If the report or reports are to the effect that no breach has been committed, unsurprisingly, the House usually takes no action. In other cases the House has varied its action depending upon how seriously the breach or contempt is viewed. While I would normally support such a suggestion in relation to committees, if the House decided to proceed in this matter, the House of Commons procedure would not be appropriate.

However, in its report to the House last week, the Standing Orders and Procedure Committee, when reporting on certain recommendations of the Commission on Government, recommended that if issues of privilege were to be referred to a committee, that committee should be the Standing Orders and Procedure Committee as that body is usually constituted by members with a significant background in the Parliament and a good understanding of the workings of the House.

The matter raised by the member for Fremantle is an issue on which I am prepared to allow precedence to any motion which may be proposed to the House, even though it might be seen as a technical issue only. In coming to that conclusion, I am especially conscious of the need to ensure that committees of the House work effectively and that all members are aware of their considerable responsibility to ensure that the committee system operates in a way which continues to enjoy the confidence of the public.

In relation to the matter raised by the member for Mitchell, I note the time which has passed since the matter came to his notice. It is important that if there is an issue of privilege which a member thinks the House should consider, the matter be brought before the House as soon as possible, but the delay does not of itself disqualify the matter from obtaining precedence. Given the statement made by the member for Mitchell and having had an opportunity to see the newspaper report referred to, there appears to be at least some technical basis for finding the matter to be more than trivial, and if the House decides to deal with the matter raised by the member for Fremantle, it could conveniently deal with this matter at the same time.

Referral to Standing Orders and Procedure Committee

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

> That the matters raised today as matters of privilege by the members for Fremantle and Mitchell be referred to the Standing Orders and Procedure Committee for consideration and report on whether a contempt or breach of privilege has occurred; and, if so, what action should be taken by the House.

ADJOURNMENT OF THE HOUSE

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

> That the House at its rising adjourn until a date and time to be fixed by the Speaker.

House adjourned at 12.47 am (Friday)

QUESTIONS ON NOTICE

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

DIESEL BUS PURCHASE

3653. Ms WARNOCK to the Minister representing the Minister for Transport:

(1) What was the basis for the Minister's decision to purchase diesel buses rather than gas buses?

(2) From where did the Minister receive advice supporting the decision to purchase diesel buses?

(3) Will the Minister table copies of that advice?

(4) If not, why not?

(5) Can the Minister confirm that the new buses can be run on a specially formulated diesel fuel?

(6) By what name is this special diesel fuel known?

(7) Will the Minister please explain why this special diesel is termed 'environmentally friendly'?

(8) What are the adverse effects of this diesel fuel on Perth's airshed?

(9) Will the Minister detail the availability in Perth of this special diesel fuel both now and in the future?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) On the 19 February 1997, the Department of Transport conducted a conference entitled "Fuelling the Future". The purpose of the conference was to determine objectively what course to take in terms of selecting the most appropriate fuel for new buses.

In summary, the message from the conference was that diesel is still a very clean and appropriate fuel for urban public transport, it remains the benchmark against which other fuels are assessed, and any transition to alternative fuels should be carefully planned and based upon robust research. A clear ‘whole-of-life’ cost comparison of natural gas powered vehicles with diesel is not currently available either in Australia or internationally. A 'whole-of-life' cost comparison, to be complete, should consider all the following:

Higher CNG bus purchase price;

Cheaper CNG fuel;

The higher servicing cost of gas buses over their life, including the cost associated with testing and servicing gas cylinders;

The comparative reliability of gas engine buses with their diesel counterparts;

The cost and availability of gas filling facilities, Transperth only having one site at Malaga for gas filling;

The relative exhaust emission levels of gas compared with diesel, and the impact of the substances emitted, in terms of the potential greenhouse effect or contribution to atmospheric haze;

The impact of the deregulation of the gas industry, and;

The potential for the future application of a Commonwealth Government excise to CNG.

The tenders received by Transport for the provision of new Transperth buses were routinely assessed by an Evaluation Panel chaired by Transport. Acceptance of Mercedes Benz as the supplier of new buses as recommended by the Tender Evaluation Panel was a Government decision.

The recommendation put to Government by the Tender Evaluation Panel proposing that diesel buses be procured in the first year had its basis in the fact that the majority of the issues above had not been resolved satisfactorily, either in Perth or elsewhere in Australia or internationally. The use of CNG was acknowledged to be in its infancy, and additional time was required to ensure that the decision to convert

to its use was based upon sound foundations. As a consequence, Government approved the acquisition of five fuel injected gas buses in the first year of the contract with Mercedes Benz and has established an expert Committee with an Independent Chairperson to assess the most appropriate fuel for our buses after thorough testing and analysis of our diesel and gas buses.

(2) Refer to the answer to question (1).

(3) No.

(4) The Tender Evaluation document contains matters relating to unsuccessful tenderers' bids which are commercial in confidence.

(5) Yes.

(6) In Australia the fuel is known as "low sulphur diesel".

(7) Low sulphur content in the fuel contributes to a lowering of the particulates in the exhaust emissions of diesel engines.

(8) When compared to the existing bus fleet, the use of “low sulphur” fuel and Euro 2 engines will result in a net environmental benefit.

(9) The fuel is available now. It is currently being used in underground mining operations in Western Australia. Both BP and Shell have confirmed that supplies of this ‘low sulphur diesel’ will be available for the new buses when they enter service.

TAXI INDUSTRY DELEGATION TO NEW ZEALAND

3674. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) Can the Minister confirm that Howard Croxton and Wally Guangano of the Taxi Industry Board, and Rob Leicester of the Taxi Unit are travelling to New Zealand to, inter alia, study de-regulation of the taxi industry?

(2) If yes, who is funding this trip and why has no taxi operator been included in the delegation?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) The Chairman and the Executive Officer of the taxi industry’s peak representative body, the Taxi Industry Board and the Manager of Transport’s Taxi Unit, which is responsible for regulating the taxi industry travelled to New Zealand to examine the impact that has resulted from the deregulation of the taxi industry by the Labour Government in 1989.

(2) The Taxi Industry Development Fund funded the representatives from the Taxi Industry Board and the operating budget of Transport’s Taxi Unit funded the Manager of the Unit.

GOVERNMENT VEHICLES WITH PERSONALISED NUMBER PLATES

3753. Mr MASTERS to the Minister representing the Minister for Transport:

(1) Have any of the Government agencies or departments within the Minister's portfolio responsibilities purchased personalised number plates for any of the motor vehicles within their car or truck fleets?

(2) If yes, how many personalised plates have been purchased in each of the past three years and at what cost?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

Department of Transport

(1) No.

(2) Not applicable, however CAT BUS plates which are attached to our Central Area Transit vehicles are not personalised plates as personalised plates are issued in a standard colour blue with black characters and contain one, two or three alpha characters and a mandatory three numeric characters.

NATIONAL COMPETITION POLICY REVIEW

3765. Dr GALLOP to the Premier:

As referred to in the 1998-99 Budget Paper No 3 (at page 155), a major program of the National Competition Policy (NCC) review is that which is targeting legislation which may restrict competition, I ask -

(1) What is the total number of pieces of legislation that will need to be reviewed as part of the NCC process?

(2) During 1996 -

(a) how many NCC reviews were completed in 1996;

(b) which pieces of legislation were reviewed in that process;

(c) did any of the reviews include recommendations that the relevant legislation be either amended or repealed, and if so, which ones;

(d) if the answer to the preceding question is yes, has legislation been introduced to give effect to the reviews' recommendations; and

(e) if not, why not?

(3) During 1997 -

(a) how many NCC reviews were completed in 1997;

(b) which pieces of legislation were reviewed in that process;

(c) did any of the reviews include recommendations that the relevant legislation be either amended or repealed, and if so, which ones;

(d) if the answer to the preceding question is yes, has legislation been introduced to give effect to the reviews' recommendations; and

(e) if not, why not?

(4) During 1998 up to and including 7 May 1998 -

(a) how many NCC reviews have been completed;

(b) which pieces of legislation were reviewed in that process;

(c) did any of the reviews include recommendations that the relevant legislation be either amended or repealed, and if so, which ones;

(d) if the answer to the preceding question is yes, has legislation been introduced to give effect to the reviews' recommendations; and

(e) if not, why not?

(5) Are there any reviews of legislation that have already commenced but as at 7 May 1998 have not yet been completed?

(6) If so, which ones?

Mr COURT replied:

(1) 289 existing Acts and all new legislation.

(2) (a) None – the first year in which reviews commenced.
(b)-(e) Not applicable.

(3) (a) 19.

(b) Business Franchise (Tobacco) Act 1975
Agriculture Act 1988
Carnarvon Banana Industry (Compensation Trust Fund) Regulations 1962
Bush Fires Act 1954 and Regulations
Dried Fruits Act 1947
Fertilisers Act 1977 and Regulations
Aboriginal Affairs Planning Authority Act 1972 and Regulations
Aboriginal Heritage Act and Regulations 1974

Suitors Fund Act 1964
Administration Act 1903 and Regulations
Lotteries Commission: (Super 66) Rules 1996; (Powerball Lotto) Rules 1996; (Saturday Lotto) Rules 1996; (Oz Lotto) Rules 1996; (Soccer Pools) Rules 1996; (Instant Lottery) Rules 1996; Lotteries Commission Regulations 1991
Boxing Control Act 1987 and Regulations
Suitors Fund Act 1964
Motor Vehicle Dealers Act 1973 and Regulations
Environmental Protection Act 1986
WA Land Authority Act 1992
Pig Industry Compensation Act 1942 and Regulations
Poultry Industry (Trust Fund) Act 1948
Plant Pests and Diseases (Eradication) Fund Act 1996

(c) Yes.
Carnarvon Banana Industry (Compensation Trust Fund) Regulations 1962
Dried Fruits Act 1947
Fertilisers Act 1977 and Regulations
Suitors Fund Act 1964
Administration Act 1903 and Regulations
Suitors Fund Act 1964
Motor Vehicle Dealers Act 1973 and Regulations
Pig Industry Compensation Act 1942 and Regulations
Poultry Industry (Trust Fund) Act 1948
Plant Pests and Diseases (Eradication) Fund Act 1996

(d) No.

(e) The amendments are yet to be drafted and proceed through Parliament. It is proposed that all minor amendments arising from NCP reviews be dealt with through a Repeal and Amendment (National Competition Policy) Bill.

(4) (a) 13.

(b) WA Treasury Corporation Act 1986
Chicken Meat Industry Act 1977 and Regulations
Lotteries Commission Act 1990
Rates and Charges (Rebates and Deferments) Act 1992
East Perth Redevelopment Act 1991 and Regulations
Industrial Relations Act 1979
Subiaco Redevelopment Act 1994
Sandalwood Act 1929 and Regulations
Trustees Companies Act 1987
Insurance Commission of Western Australia Act 1986 and Regulations
Eastern Goldfields Transport Board Act 1984 and Regulations
Gas Transmission Regulations 1994
State Trading Concerns Act 1916

(c) Yes.
WA Treasury Corporation Act 1986
Chicken Meat Industry Act 1977 and Regulations
Industrial Relations Act 1979
Sandalwood Act 1929 and Regulations
Trustees Companies Act 1987
Eastern Goldfields Transport Board Act 1984 and Regulations

(d) No.

(e) The amendments are yet to be drafted and proceed through parliament. The Premier proposes that all minor amendments arising from NCP reviews be dealt with through a Repeal and Amendment (National Competition Policy) Bill.

(5) Yes.

(6) 61 reviews of existing legislation have commenced and are at varying stages of completion. 44 of these reviews have had a draft review completed or being considered by Government. The remaining 17 reviews have all at least had terms of reference endorsed by Treasury and are being progressed. These include:

Terms of reference received by Treasury
Regional Development Commissions Act 1993
Bread Act 1982 and Regulations
Retail Trading Hours Act 1987 and Regulations
Fish Resources Management Act 1994

Fisheries Adjustment Schemes Act 1987 and Regulations
Fishing Industry Promotion Training and Management Levy Act 1994
Pearling Act 1990 and Regulations
Aerial Spraying Control Act 1966 and Regulations
Agricultural Products Act 1929 and Regulations
Agriculture and Related Resources Protection Act 1976 and Regulations
Agriculture and Veterinary Chemicals (Western Australia) Act 1995 and Regulations
Veterinary Preparations and Animal Feeding Stuffs Act 1976
Veterinary Surgeons Act 1960
Metropolitan Water Authority Act 1982
Metropolitan Water Supply, Sewerage and Drainage Act 1909
Water Agencies (Powers) Act 1984
Architects Act 1921 and Regulations
Draft review received by Treasury
Law Reporting Act 1981
Education Service Providers (Full Fee Overseas Students) Registration Act 1992
Aboriginal Communities Act 1979 and By-laws.
Conservation and Land Management Act 1984 and Regulations
Finance Brokers Control Act 1975 and Regulations
Motor Vehicle (Third Party Insurance) Act 1943 and Regulations
Workers' Compensation and Rehabilitation Act 1983
Caravan Parks and Camping Grounds Act 1995
Local Government Act 1995
Cattle Industry Compensation Act 1965 and Regulations
Rottnest Island Authority Act 1987
Anglo-Persian Oil Company Limited (Private) Act 1919
British Imperial Oil Company (Private) Act 1925
Commonwealth Oil Refineries Limited (Private) Act 1940
Land Acquisition and Public Works Act 1902
South Fremantle Oil Installations Pipeline Act 1948
Texas Company (Australasia) Limited (Private) Act 1928
Land Valuers Licensing Act 1978 Regulations
Licensed Surveyors Act 1909 and Regulations
Strata Title General (Amendment) Regulations 1997
Strata Title General Amendment Regulations 1996
Strata Title General Regulations 1996
Strata Titles Amendment Act 1996
Explosives and Dangerous Goods Act 1961
Electricity Act 1945
Electricity Corporation Act 1994
Energy Corporations (Powers) Act 1995
Gas Corporation Act 1994
Petroleum Products Subsidy Act 1965 and Regulations
Western Australian Meat Industry Authority Act 1976 and Regulations
Government Railways Act 1904 and Bylaws: Nos 1 to 53, 59, 62, 63, 64, 68, 74. No 55 (rates) No 60 (passenger fares) No 75 (Auction Sales) No 76 (Licensed Porters)
Water Supply, Sewerage and Drainage Act 1912
Curtin University of Technology Act 1996
Edith Cowan University Act 1984
Murdoch University Act 1973
University Colleges Act 1926
University of Notre Dame Australia Act 1989
University of Western Australia Act 1911
Painters Registration Act 1961
Police Force Canteen Regulations 1988
Potato Growing Industry Trust Fund 1947 and Regulations
North West Gas Development (Woodside) Agreement Amendment Act 1994
State Supply Commission Act 1985 and Regulations
Water Boards Act 1904 and Bylaws

TRAIN SECURITY

3791. Mr BROWN to the Minister representing the Minister for Transport:

(1) Did the Minister issue a media statement on 1 April 1998 indicating by September 1998 there will be 111 special constables riding on trains to make train travel safer?

(2) Did the Minister say in the same media statement 89 highly trained constables are employed at present?

(3) What is the nature of the training special constables receive?

(4) What does the training consist of?

(5) How long does the training last?

(6) By September 1998, will each train that runs in daylight hours have a special constable on board?

(7) If not, what will be the criteria for allocating special constables in daylight hours?

(8) By September 1998, will each train that runs after the hours of darkness have a special constable on board?

(9) If not, what will be the criteria for allocating special constables in night time hours?

(10) When did Westrail commence using special constables?

(11) Do special constables have the authority to write out infringement or other notices?

(12) If so, how many such notices have been issued to date in the 1997-98 financial year?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) Yes. However, the special constables will also be employed on a range of other duties associated with providing a safer environment for people to travel on the suburban railway.

(2) Yes.

(3)-(4) The special constables receive training similar to the training provided to police officers, with some aspects of that training provided by police instructors. The training includes, police procedures, statute theory, brief preparation and evidence. There is a high focus placed on behavioural sciences, including conflict resolution, dealing with minority groups and people with disabilities, and cross culture awareness. Also, the special constables receive training in customer service, ticketing procedures, issuing of infringement notices and train safeworking procedures.

(5) The basic course has a duration of thirteen weeks; however, some special constables undertake a further two weeks training to access the computerised police information system.

(6) No.

(7) The criterion for allocating special constables is the demonstrated need for a security presence balanced against available resources. During the operation of day time services, four special constables will be assigned to Armadale line and two special constables will be assigned respectively to the Midland, Fremantle and Currambine lines. These officers will conduct random patrols of train services and will have the ability to target services on which trouble is anticipated or is a regular occurrence.

(8) Presently all trains departing Perth after 6.00 pm each evening have at least one special constable on board with all trains departing Perth after 8.00 pm each evening having at least two special constables on board. This arrangement will continue.

(9) Not applicable.

(10) October 1995.

(11) Yes.

(12) Extraction of the information from Westrail's records, specifically relating to infringement notices issued by special constables, would require considerable research which would divert staff away from their normal duties and I am not prepared to allocate the State's resources for this purpose. However, I can advise that from 1 July 1997 to 21 May 1998 approximately 35 000 infringement notices were issued collectively by Westrail's special constables, customer service assistants and revenue protection officers for various offences committed on the suburban railway. The majority of the infringement notices issued were for ticket related offences.

WESTRAIL PROPERTY

Graffiti and Trespassing Charges

3794. Mr BROWN to the Minister representing the Minister for Transport:

(1) How many charges have been laid against individuals for trespassing on Westrail property or gaining illegal access into Westrail property in the -

(a) 1992-93 financial year;

(b) 1994-95 financial year; and

(c) 1996-97 financial year?

(2) In the same financial years how many charges have been laid in relation to graffiti on Westrail property?

(3) In the same financial years how many people were convicted of one or more of these offences?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

In relation to charges laid under the Government Railways Act in respect of offences committed on the suburban railway:

(1) (a) 18
(b) 103
(c) 85

(2) (a) 38
(b) 28
(c) 34

(3) This information is not available in Westrail records.

SPEED LIMITS ON ROADS IN NORTH WEST

3807. Mr GRAHAM to the Minister representing the Minister for Transport:

(1) Does the Government intend to increase the speed limit on any roads in the North West?

(2) If the answer to (1) is yes -

(a) on what date will the change be implemented;

(b) on which roads will the change be implemented; and

(c) to what speed will the speed limit be increased?

(3) If not, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1)-(3) A review by the Speed Management Task Force and the Road Safety Council is currently detailing speed of vehicles, accident statistics and other relevant information for sections of road in the Kimberley and Pilbara regions.

GOVERNMENT DEPARTMENTS AND AGENCIES

Staff

3826. Mr GRAHAM to the Minister for the Environment; Employment and Training:

What are -

(a) the numbers of departmental staff in departments under the Minister's control located in the following towns -

(i) Port Hedland;
(ii) South Hedland;
(iii) Tom Price;
(iv) Paraburdoo;
(v) Telfer;
(vi) Marble Bar;
(vii) Nullagine;
(viii) Karratha;
(ix) Halls Creek;
(x) Wiluna;

(xi) Dampier;
(xii) Roebourne; and
(xiii) Wickham;

(b) the classifications of those staff;

(c) the programs currently being funded in the towns listed in (a), in the departments under the Minister's control?

Mrs EDWARDES replied:

Perth Zoo:

(a)-(c) Not applicable.

Department of Conservation and Land Management:

(a) (i)-(vii)
Nil.
(viii) 13
(ix-xiii)
Nil.

(b) 1 - Level 8, Public Service Award 1992 (PSA)
1 - Level 6, PSA
2 - Level 5, PSA
4 - Level 3, PSA
2 - Level 2/4, PSA
1 - Level 1, PSA
1 - Ranger Grade 2, Rangers (National Parks) Consolidated Award 1987
1 - Level 2, Australian Workers Union (Western Australian Public Sector Award) 1992

(c) Departmental programs for Nature Conservation, Management for Tourism and Recreation, and Forest Resources Management are being funded. I would be prepared to arrange a briefing by the Regional Manager Pilbara if more detailed information is required by the member.

Department of Environmental Protection

(a) Three positions at Karratha, one of which one is currently vacant.

(b) Level 6/7 (vacant).
Level 2/4.
Level 2.

(c) To provide a locally responsive environmental protection service in the region (Pilbara). This includes a pollution response service to the community and industry, together with regional input into strategic studies and environmental assessments. In essence, the Karratha office provides a regional facility which is a first point of contact for its customers and either directly or indirectly provides the full range of services provided by the Department of Environmental Protection.

Kings Park and Botanic Garden

(a) Nil.
(b) Not applicable.
(c) Nil.

Western Australian Department of Training:

(a) (i)-(vii) Nil.
(viii) Karratha 1
(ix-xiii) Nil.

(b) GOSAC Level 5 1

(c) Port Hedland Serviced by South Hedland Programs
South Hedland Job Link
Tom Price Job Link
Karratha Job Link, Group Training Company
Halls Creek Aboriginal Economic and Employment Development Officer Program

Kimberley College of TAFE

(a) (i)-(viii) Nil.

(ix) Halls Creek 15
(x)-(xiii)Nil.

(b)

Lecturer Level 1	3
Lecturer Level 4	1
Lecturer Level 5	1
Casual Lecturer Level 1	7
GOSAC Level 1	1
GOSAC Level 2	1
GOSAC Level 6	1

(c) Halls Creek Vocational Education and Training Programs

Hedland College of TAFE

(a) (i) Port Hedland Nil.
(ii) South Hedland 142
(iii)-(xi) Nil.
(xii) Roebourne 12
(xiii) Wickham Nil.

(b)

Lecturer Level 5		7
Lecturer Level 6		1
Lecturer Level 8		2
Lecturer Level 9		3
Lecturer Level 10	8	
Lecturer Level 11	4	
Lecturer Level 12	15	
Lecturer Level 13	1	
Lecturer Level 14	9	
Head of Department 2		1
Head of Department 3		2
GOSAC Level 1		28
GOSAC Level 2		22
GOSAC Level 3		10
GOSAC Level 4		7
GOSAC Level 5		2
GOSAC Level 6		5
GOSAC Level 7		3
GOSAC Level 8		1
Class 1		1
Child Care providers		18
Gardener	3	
Cleaner		1

(c) Port Hedland Vocational Education and Training
South Hedland Vocational Education and Training

Karratha College of TAFE

(a) (i)-(ii) Nil.
(iii) Tom Price 7
(iv) Paraburdoo 2
(v)-(vii) Nil.
(viii) Karratha 85
(ix)-(xii) Nil.
(xiii) Wickham 1

(b)

Lecturer Level 8		1
Lecturer Level 9		3
Lecturer Level 10	16	
Lecturer Level 11	1	
Lecturer Level 12	5	
Lecturer Level 14	2	
Senior Lecturer		6
GOSAC Level 1		13
GOSAC Level 2		18
GOSAC Level 3		7
GOSAC Level 4		2
GOSAC Level 5		3
GOSAC Level 6		2
GOSAC Level 7		3
GOSAC Level 9		1

Cleaners	8	
Gardeners	2	
Storeperson		1
Creche Worker		1

(c)

Tom Price	Vocational Skills Formation and Development
Paraburdoo	Vocational Skills Formation and Development
Karratha	Vocational Skills Formation and Development, Cultural Services
Wickham	Vocational Skills Formation and Development

GOVERNMENT DEPARTMENTS AND AGENCIES

Staff

3839. Mr GRAHAM to the Minister representing the Minister for Transport:

What are -

(a) the numbers of departmental staff in departments under the Minister's control located in the following towns -

(i) Port Hedland;
(ii) South Hedland;
(iii) Tom Price;
(iv) Paraburdoo;
(v) Telfer;
(vi) Marble Bar;
(vii) Nullagine;
(viii) Karratha;
(ix) Halls Creek;
(x) Wiluna;
(xi) Dampier;
(xii) Roebourne; and
(xiii) Wickham;

(b) the classifications of those staff;

(c) the programs currently being funded in the towns listed in (a), in the departments under the Minister's control?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

Department of Transport

	Number of Staff		Classification
(a)-(b) South Hedland		1	Level 2
Tom Price	1		Level 1
Paraburdoo	1		Level 1
Karratha	9		Level 1 x 4
			Level 2 x 3
			Level 3
			Level 4
TOTAL		12	

(c) Licensing services are provided by staff located at South Hedland, Tom Price, Paraburdoo and Karratha. A regional transport coordination service is also provided by staff at Karratha.

Port Hedland Port Authority

	Number of Staff		Classification
(a)-(b) Port Hedland		5	Level 2
	3		Level 3
	2		Level 4
	2		Level 7
	6		Unclassified
	1		Level 9
TOTAL		19	

(c) Nil.

Main Roads WA

	Number of Staff	Classification	Level
(a)-(b) Port Hedland	12	AWU	2
	1	AWU	3
	3	AWU	4
	4	AWU	5
	1	Engineering Trades	1
	1	Engineering Trades	2
	1	Clerical	1
TOTAL	23		

	Number of Staff	Classification	Level
South Hedland	7	Clerical	1
	2	Clerical	3
	1	Clerical	4
	3	Clerical	5
	2	Technical	1
	3	Technical	3
	2	Technical	4
	1	Technical	5
	2	Technical	6
	3	Engineer	2/4
	2	Engineer	5
	1	Engineer	6
	1	Engineer	7
	2	Engineer	8
	1	Miscellaneous	1/3
TOTAL	33		

	Number of Staff	Classification	Level
Karratha	1	AWU	4
Halls Creek	1	AWU	5

(c) Main Roads Western Australia has three main programs, Road Preservation, Road Improvement and Road Expansion. Under these three programs, over $230 million will be spent on roads in the Pilbara region during the next 10 years. Main Roads has had a strong presence in the Pilbara and other regions for many years and this will certainly continue. Under changes by Main Roads the number of people it directly employs will reduce over the next few years. However, with the movement of all construction and maintenance activities to the private sector, together with the increased road funding commitment of the Government, there will be many new employment opportunities in regional areas.

CREMATIONS, PAPERWORK

3849. Mr BROWN to the Minister for Health:

(1) Is the Minister aware that once a medical practitioner is satisfied with the cause of death that the relevant paper work and attendant paper work in the cases of a cremation should be carried out forthwith?

(2) Is the Minister aware -

(a) it takes Royal Perth Hospital an inordinate amount of time to process the paperwork; and

(b) that delay can result in the inability of the family of the deceased to organise the funeral at the most convenient time, particularly where a weekend intervenes between the time of death and the funeral date?

(3) Will the Minister investigate this matter?

(4) If not, why not?

(5) Will the Minister take steps to ensure the paperwork is completed without delay?

(6) If not, why not?

Mr PRINCE replied:

(1) Cremation requires a death certificate and a separate cremation certificate. The death certificate can only be signed by a medical practitioner who has attended the patient before death. It is not necessary for this to be the medical practitioner who attended the patient immediately prior to death.

(2) (a) The paperwork at Royal Perth Hospital is normally completed on the same day of death or at latest the following day during weekdays. At weekends, the attending doctor may not be available which may delay the signing of the certificate until Monday. This is normal practice in major hospitals.

(b) The delay in completing the paperwork over the weekend does not stop the family organising the funeral. The completed paperwork only needs to be presented prior to the funeral. The Hospital has no knowledge of any funeral delayed due to lack of paperwork. The only delaying factor could be the need for a coroner's autopsy which is beyond the control of the Hospital.

(3) If the member for Bassendean could provide specific details of a case then the matter will be investigated, as the Hospital has no knowledge of where this process has caused any delays.

(4) Not applicable.

(5) The current procedures appear satisfactory, however, I will remind the appropriate officers of their responsibilities.

(6) Not applicable.

NURSES' PAY AND CONDITIONS OF EMPLOYMENT

3851. Mr BROWN to the Minister for Health:

(1) Did the Minister recently write to Mrs Joy Clark about the nurses dispute?

(2) In that letter, did the Minister say current industrial legislation provides for enterprise bargaining, which means negotiations for pay increases occur at the enterprise level?

(3) Is the Minister aware industrial legislation still provides for awards and adjustments in award wages and conditions?

(4) If so, why did the Minister ignore that fact in that letter to Mrs Clark?

(5) Did the Minister also say in his letter that the industrial relations system will simply not allow the freezing in time of those conditions which are inefficient?

(6) Can the Minister identify those conditions in the nurses award which are inefficient?

(7) Would it be true to say the Minister considers those conditions of employment, such as penalty rates for working on weekends or shift work inefficient?

(8) Did the Minister also say that the union's request for a single agreement may well restrict the industry's ability to provide high quality patient care?

(9) Can the Minister explain how conditions of employment in a single industry award may affect high quality patient care?

(10) Did the Minister also say that in the Health Department's view there is a need at particular sites in WA to have an agreement that reflects the needs of that particular site?

(11) If so, is the Minister aware that it is possible to frame award provisions to cater for different arrangements at different sites?

Mr PRINCE replied:

(1) Yes, a letter was sent 7 April 1998.

(2) The letter quotes -

> No longer are pay increases decided on an across the board basis with no account taken for the needs of employees and employers in individual enterprises, hospitals in this case. Current industrial legislation provides for 'enterprise bargaining', which means negotiations for pay increases occur at the enterprise level. The current industrial relations system simply will not allow the freezing in time of those conditions which are inefficient. If employees want significant increases in pay, negotiations need to consider productivity improvements and initiatives. The only other increases which are available are those applicable to low paid workers who do not have the opportunity of negotiating increase at the enterprise. These are called 'safety net increases'.

(3) Yes.

(4) I did not ignore this fact and indeed the letter made reference to one aspect being the Safety Net Increases.

(5) Yes, as I quoted from the letter at point 2 earlier.

(6) There are a number of Clauses identified as inefficient and are currently being addressed via allowable matters including Clause 9 - Time and Wages Record, Clause 10 - Deduction of Union Subscriptions, Clause 28 - Introduction of Change, Appendix 1 - Flexibility in rostering and Appendix 3 - 38 Hour week.

(7) It is not possible to say that any one condition is inefficient as work practices will vary from one workplace to another and therefore the conditions need to be reviewed at an enterprise level.

(8) Yes. The letter quotes -

> The current negotiations with the Australian Nursing Federation have been stalled over the issue of having one Agreement to cover all nurses in this State. The Union request for a single agreement is contrary to current legislative provisions and may well restrict the industry's ability to provide high quality patient care. It is the Health Department's view that there is a need at particular sites in WA to have an agreement that reflects the needs of that particular site, given that nurses in WA have a number of employers each of whom can negotiate Enterprise Bargaining Agreements. For example, we have received support from nurses in the North-West for a separate agreement that can be tailored to their particular needs including looking at attraction and retention issues.

(9) The intent of my response to this was that a single agreement will not give the Employers the flexibility to respond to the differing needs of patients across the industry because what may work at Royal Perth Hospital to address the patients' needs may be totally different to the needs at Albany Hospital.

(10) Yes I have just commented on that.

(11) Yes however that is not the only mechanism open to us and that is why we are using the Certified Agreement provisions as set out in the Workplace Relations ACT 1996, to give the flexibility that is required to address the needs at the different workplaces.

EXMOUTH, EXPLORATION PERMIT FOR PETROLEUM

3896. Mr BROWN to the Minister representing the Minister for Mines:

(1) Is the Minister aware of the Exmouth/Learmonth (North West Cape) Structure Plan dated April 1998?

(2) Was the Minister aware of the imminent publication of the Structure Plan when he granted an exploration permit for petroleum to ESU Pty Ltd and others on 19 March 1998?

(3) Is there any conflict between the land use arrangements proposed in the Structure Plan and the exploration permit granted by the Minister?

(4) If so, what is that conflict?

(5) If not, on what basis does the Minister maintain the exploration permit conforms with the land use proposals in the Structure Plan?

Mr BARNETT replied:

(1) Since notice of this question I have been made aware that a draft plan for the Exmouth/Learmonth area has been released for comment by the Minister for Planning.

(2)-(3) No.

(4) Not applicable.

(5) The plan as currently drafted recognises the oil and gas potential of the North West Cape area and does not create any conflict as to land use which cannot be addressed under existing policies and processes.

MAIN ROADS CONSTRUCTION AND MAINTENANCE CONTRACTS

3925. Dr GALLOP to the Minister representing the Minister for Transport:

(1) Are local government authorities permitted to tender for Main Roads construction and maintenance contracts?

(2) If yes, are there any specific conditions or qualifications which shires have to meet before being eligible for these contracts?

(3) If no to (1) above, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) Yes.

(2) State Supply Commission policy requires bids to be calculated on a full commercial basis and without any form of subsidy. In addition, Main Roads Western Australia requires prequalification of tenderers for complex works, roadworks over $2 million, bridgeworks over $1 million and for selected consultancy contracts.

(3) Not applicable.

TOURISM

Effect of One Nation Party

3933. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is the Minister aware of a news item broadcast of SSPM on Wednesday, 6 May 1998 concerning the Queensland Government being warned by the Tourism Association that the Government's failure to put the "One Nation Party" last on the ballot paper could have dire consequences for Queensland tourism?

(2) Has the Minister and/or the Western Australian Tourism Commission (WATC) examined the potential consequences of this for tourism?

(3) If not, will such an examination take place?

(4) If not, why not?

Mr BRADSHAW replied:

(1) I was unaware of the news item referred to in the question and have since obtained a copy.

(2)-(3) In August 1997, at the height of the Pauline Hanson debate, the Western Australian Tourism Commission participated in a number of discussions with the Australian Tourist Commission and the local tourism industry in relation to the "Pauline Hanson" factor. Industry indicated that in a number of markets, there was a high level of awareness of the Hanson issues but it was believed that the impact on tourism numbers was minimal. There was concern that if the issues continued to attract adverse publicity, the longer term impact could be greater. At the time there was no qualitative evidence to link Hanson's comments with a downturn in visitor numbers and the WATC undertook to monitor the impact based on industry feedback. Given the economic downturn in South East Asia it would be very difficult to isolate the impact Hanson's comments may have had on this market however, the situation will continue to be monitored.

(4) Not applicable.

ASBESTOS DISEASE RESEARCH FOUNDATION

3939. Mr BROWN to the Minister for Labour Relations:

(1) Is the Minister aware that the Hon. Peter Reith, MHR, Federal Minister for Industrial Relations, announced the establishment of a National Asbestos Disease Research Foundation (NADRF) in 1996?

(2) Is the Minister aware if Mr Reith promised that the Commonwealth would commit funds to asbestos disease research through the Foundation?

(3) Is the Minister aware of how much Mr Reith said would be committed to research funding?

(4) If so, how much was it?

(5) Did the State Government have any discussions with the Commonwealth Government on the NADRF?

(6) Did the State Government make any financial contribution to the foundation?

(7) Is the Minister aware if the Commonwealth Government made any funds available to the foundation?

(8) If so, how much was made available?

(9) Is the Minister aware if the foundation is -

(a) active; and
(b) functional?

(10) Has the State Government taken any active role to -

(a) promote the foundation;
(b) participate in the foundation; and
(c) advocate the foundation cease to exist?

(11) Is the foundation now defunct?

(12) If so, for what reason?

Mr KIERATH replied:

(1) The National Asbestos Diseases Research Foundation was established by the National Occupational Health and Safety Commission in 1992. The Hon Peter Reith, Federal Minister for Industrial Relations, noted the establishment of the Foundation during his opening address of the National Scientific Symposium and Workshop on Asbestos Related Diseases on the 11 June 1998.

(2)-(4) No funds were promised by the Commonwealth Government. The National Occupational Health and Safety Commission set a goal of raising $10 million over 10 years which was to be funded by the public and private sectors.

(5) Yes.

(6)-(8) The State and Commonwealth Governments contributed to a seeding fund to establish the Foundation. The State contributed $10 000 with the National Commission contributing a further $30 000.

(9) (a)-(b) The Foundation is not active or functional as the National Occupational Health and Safety Commission decided not to proceed with the establishment of the Foundation at its meeting on 25 July 1997.

(10) (a)-(b) Yes.
(c) No.

(11)-(12)
See (9) above

YORK RAILWAY STATION LEASE

3942. Mr McGINTY to the Minister representing the Minister for Transport:

(1) Has Westrail signed the lease agreed to some 12 months ago in respect of the York Railway Station?

(2) If not, why not?

(3) Does the Minister regard a 12 month delay in finalising the lease signing as satisfactory?

(4) How does Westrail expect the lessee to run a commercial operation with a 10 year lease if there is a right to Westrail to cancel the lease on 6 months notice?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) No.

(2)-(4) Prior to April 1997 the head lease for the station premises, war memorial and parkland at York was held by the Shire of York, with the station premises subleased to D J & L Lingane. On April 5 1997 the lease with the Shire was renewed excluding the station premises. Following an understanding reached with D J & L Lingane for a separate lease agreement to be entered into for the station premises, taking cognisance of the commercial activities being conducted from those premises, Westrail prepared a draft lease agreement. However, D J & L Lingane will not agree to sign the lease pending a dispute concerning water rates, fencing of the property and the inclusion of a six month break clause. The six month break clause was included to allow for cancellation of the lease should the property be required for future railway use. This is a standard clause included in all Westrail leases. Westrail has now reassessed its requirements to retain

ownership of the station premises for possible future use and has commenced discussions with the Shire of York with a view to vesting the property in that authority. Under such an arrangement, the Shire of York would be responsible for leasing the property in accordance with its policies for leasing civic places under its control.

PENSIONER CONCESSIONS, BOAT LICENCES

3961. Mr PENDAL to the Minister representing the Minister for Transport:

(1) Does the Minister intend to extend pensioner concessions to boat licences as is currently the case for car licences?

(2) If not, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) It is not intended to extend pensioner concessions to boat registration fees.

(2) Boat registration fees apply to what may be termed as a non-essential leisure activity, therefore these fees do not attract a pensioner concession and are unlikely to do so in the future.

GOVERNMENT EMPLOYEES SUPERANNUATION PENSION SCHEME

3967. Dr CONSTABLE to the Minister representing the Minister for Finance:

(1) Did male members of the Government Employees Superannuation Pension Scheme contribute a nominal amount additional to the contributions of female members to cover the reversionary pension cover for their spouses upon their death?

(2) If yes to (1) above, for how long did they make the additional payments, and what is the amount of the additional payment?

(3) Did female members contribute a nominal amount to cover the payment of a pension to their spouses who are entitled to a reversionary pension based on financial dependence?

(4) If no to (3) above, why not?

(5) If yes to (3) above, on what date did the additional payments commence, and what is the amount of the additional payments?

Mr COURT replied:

The Minister for Finance has provided the following response:

(1) Yes.

(2) For their entire period of contributory membership. The amount is not identifiable as it is included in the overall structure of contribution rates, by way of an actuarial allowance. The amount attributable to reversionary cover could vary for individuals according to several factors, including the number of units purchased at any point in time, the age of the member when units were purchased and the elected retiring age of the member.

(3) No.

(4) This issue relates to a policy decision taken over 25 years ago and it has not been possible to locate any details relating to the decision. However, from a search of *Hansard*, it seems obvious that the cost of the additional benefits was borne solely by the Government because of the limited application of widower benefits to cases of financial dependence, which were expected to result from a husband's invalidity.

(5) Not applicable.

TRAFFIC LIGHT SYMBOLS, MANNING ROAD-LEY STREET

3972. Mr PENDAL to the Minister representing the Minister for Transport:

I refer to the provisions by Main Roads Western Australia of 'little green and red men' symbols on traffic lights at intersections and ask -

(a) is the Minister aware that traffic lights at the intersection of Manning Road and Ley Street, Manning, do not have these 'little men' symbols;

(b) how does an intersection qualify for the installation of 'little men' symbols and safety lights;

(c) does the intersection of Manning Road and Ley Street qualify;

(d) if not, why not;

(e) given the proximity of the abovementioned intersection to Manning Primary School, will the Minister act to ensure that these safety devices are installed; and

(f) if not, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(d) The traffic management guidelines used by Main Roads require a number of conditions to be met before exclusive pedestrian signals are installed at a particular location. The criteria require that for any four hour period in a normal weekday all pedestrian movements in all directions exceeds 200 pedestrians per hour and all vehicle turning movements in all directions exceed 400 vehicles per hour. The intersection of Manning Road and Ley Street failed to meet the pedestrian criteria by approximately 50 per cent.

(e)-(f) Primary school children are best served by a guard controlled crossing as it has been found the involvement of adult supervision maximises the levels of safety for this age group. It is suggested by Main Roads that a submission be made to the Police Service for consideration of a guard crossing at the signals in question or nearby.

RALLY AUSTRALIA PROGRAMS, PRINTING CONTRACT

3981. Mr CARPENTER to the Parliamentary Secretary to the Minister for Tourism:

(1) Which company was given the contract to print the most recent Rally Australia programs?

(2) Where is that company based?

(3) On what basis was that contract let?

(4) What was the process by which the contract was let?

(5) What was the value of that contract?

Mr BRADSHAW replied:

(1) Chevron Publishing Group

(2) Hornsby, Sydney.

(3) Proposals were invited for a 76-page full colour program with a minimum of 20 000 programs produced, with editorial and photographs to be provided by the publisher. The advertising component was to be the responsibility of the publisher and the advertising ratio was not to exceed 40 %. Other essential components listed in the brief were that quotes were to be detailed in writing; the distribution deadline had to be met and would not be extended; the event organisers reserved the right to make any amendments to the program as deemed necessary; and no advertisements could be in conflict with event sponsors. Other key components expected of the program include:

The production of a publication which is of high quality as is expected of world championship events.

API Rally Australia to receive Australia-wide exposure through the sale of the publication in newsagents around the country.

API Rally Australia to receive 4 000 copies (free of charge) which could be sold at the event and given to sponsors, or used as prizes for promotions etc.

API Rally Australia to receive free, six full page advertisements for event sponsors.

The successful tenderer was to be responsible for production and distribution of the publication.

Chevron was awarded the contract as it was the only company to submit a tender from the three sought and it had previously been a satisfactory supplier.

(4) In accordance with the Western Australian Tourism Commission's quotation procedures, API Rally Australia requested that three companies forward written quotes and provided those companies with a brief.

(5) The cost to API Rally Australia was $ 20 000.

The member may be interested to know that quotations are currently being sought by EventsCorp for the production of this year's program. The closing date for submissions is 24 June, 1998.

BALLAJURA AQUATIC CENTRE

4019. Mr BROWN to the Parliamentary Secretary to the Minister for Sport and Recreation:

(1) Did the Shire of Swan apply for a Community Sporting and Recreation Facilities Fund grant to assist with the provision of an aquatic facility in Ballajura?

(2) Was this facility recognised as a high priority?

(3) Was it recognised that such a facility would serve a local population of 20,000?

(4) Was it recognised that around 7,000 teenagers will live in Ballajura by the year 2000?

(5) Why was the application rejected?

(6) Will the Government make funds available for the provision of the facility given the large area and increasing population it will serve?

(7) If not, why not?

Mr MARSHALL replied:

(1) Yes, funds were requested for development of a water playground.

(2) No, based on the findings of an independent feasibility study, initiated by the Shire of Swan and neighbouring municipalities.

(3) Yes.

(4) Yes. Ballajura is recognised as a population growth area.

(5) Inadequacy of planning of the project and insufficiency of funds for distribution relative to other requests from across the State.

(6) The Shire of Swan is eligible to apply in the next round of the Community Sporting and Recreation Facilities Fund and the project will be considered on its merits.

(7) Not applicable.

DOMESTIC VIOLENCE

4024. Mrs ROBERTS to the Parliamentary Secretary to the Minister for Justice:

(1) What provisions exist for people with a history of domestic violence who are conducting a campaign of harassment to be incarcerated?

(2) Is consideration being given to allowing police to hold on suspicion a person under a violence restraining order who is reasonably suspected of having an illegal firearm?

(3) If so, what consideration is being given?

(4) Are any changes to current domestic violence laws being considered?

(5) If so, what is being considered and what is the timetable involved?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Where there is clear evidence that an offence has been committed the person responsible can be arrested and charged with the offence. Charges may arise as a direct result of domestic violence. Where harassment is involved the provisions of Section 338D of the *Criminal Code*, which deals with unlawful stalking, and Section 61 of the *Restraining Orders Act 1997*, which deals with a breach of a restraining order, may apply. In both cases conviction of such offences may lead to imprisonment.

(2) This question is best directed to the Minister for Police.

(3) Not applicable.

(4) The first six months of operation of the *Restraining Orders Act 1997* is currently being evaluated. The evaluation is likely to recommend changes to the legislation. In addition I have been conducting enquiries at a grass roots level with women's agencies and police to determine practical problems being experienced. As was noted in the course of debate, the change in the law is only part of the solution. Practices and attitudes need to change and we are looking for practical ways to achieve these. One method has been to set up a task force between Police, Justice and Family and Children's Services to establish a best practice model for handling domestic violence. This is seeking suggestions from those involved on a day to day basis. I would welcome any contacts or suggestions you would like to provide to them.

(5) Although the evaluation is well advanced, and will be completed shortly, no conclusions or recommendations have yet been finalised.

DOMESTIC VIOLENCE

4025. Mrs ROBERTS to the Parliamentary Secretary to the Minister for Justice:

(1) How are women in domestic violence situations advised of "safe houses"?

(2) Is there any formal procedure for advising women who seek domestic violence restraining orders of "safe houses"?

(3) If so, what is the procedure?

(4) Are counsellors made available to women who seek domestic violence orders?

(5) If so, how are women made aware of this?

(6) If not, why not?

(7) What information is available for family and friends of women in domestic violence situations as to how they can assist and protect them?

(8) Where is the information available from?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) Women are advised of 'safe houses' through a number of avenues, including Victim Support Service (VSS), Women's Refuge Group, Crisis Care Unit (which has a toll-free number and provides state-wide information), officers of the Department of Family and Children's Services, hospitals and other sections of the Health Department of WA. Information on safe houses and women's refuges is made available to women by police officers attending domestic disputes. Literature is also commonly available at other relevant locations, such as doctor's surgeries and courts. Women enquiring at a court are referred to the VSS. The White Pages telephone directory has an extensive list of emergency accommodation on the Community Help Reference Page.

(2) There are no standard procedures at courts for advising women who seek violence restraining orders of 'safe houses'. Procedures vary from court to court. For example, at Perth Magistrates' Courts a VSS counsellor is permanently available and at Perth and a number of metropolitan courts court officers have been trained as Victim Support Liaison Officers, who are able to refer victims to VSS as necessary.

(3) See (2).

(4) At Perth Magistrates' Court women are referred to counselling services as needed by VSS. In other locations local crisis care services will refer women to such services.

(5) Many publications aimed at women in crisis list counselling services. For example a recent police publication lists the names and telephone numbers for six counselling services. Counselling services are also known to those agencies referred to in (1) above.

(6) Not applicable.

(7) Service providers respond to such requests and the police will advise on ways to assist in the safety of domestic violence victims.

(8) See (5) and all police operational vehicles carry a domestic violence information kit.

WOMEN'S SPORTS, FUNDING

4043. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Sport and Recreation:

(1) What funds were provided to the following women's sports in each of the last five years -

(a) hockey;
(b) basketball;
(c) netball;
(d) cricket;
(e) tennis;
(f) softball; and
(g) gymnastics?

(2) What was the source of the funding in each case?

(3) On what basis is the funding calculated?

(4) Are the funds directed for special purposes?

(5) What accountability requirements are imposed on recipients of those funds?

Mr MARSHALL replied:

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

(1) The following funds were approved to the sports nominated in the question. However, it should be noted not all the sports are 'female only' sports.

Women's Hockey

Year	Amount	
1997/98	1 050 *	*The main 1997/98 allocation has not yet been approved
1996/97	55 965	
1995/96	52 650	
1994/95	49 400	
1993/94	45 225	

Basketball

Year	Amount	
1997/98	70 000	
1996/97	35 859	
1995/96	99 443	
1994/95	164 118 *	* Relates to funding over a period greater than 12 months but
1993/94	28 610	approved during 1994/95

Netball

Year	Amount	
1997/98	146 764	
1996/97	252 502	* Relates to funding over a period greater than
1995/96	44 921	12 month, but approved during 1996/97
1994/95	182 767	* Relates to funding over a period greater than
1993/94	43 546	12 month, but funding approved during 1994/95

Women's Cricket

Year	Amount
1997/98	11 716
1996/97	11 600
1995/96	11 500
1994/95	12 500
1993/94	12 500

Tennis

Year	Amount
1997/98	83 268
1996/97	110 453
1995/96	97 740
1994/95	99 771
1993/94	98 867

Softball

Year	Amount
1997/98	56 357
1996/97	51 106
1995/96	56 146
1994/95	49 482
1993/94	49 566

Gymnastics

Year	Amount
1997/98	79 154
1996/97	87 943
1995/96	87 115
1994/95	70 784
1993/94	79 453

A more detailed breakdown is available in the Ministry of Sport and Recreation's annual reports.

(2) The figures quoted are from a combination of sports Lottery Account and Consolidated Fund sources. They do not include capital works funding through the Community Sporting and Recreation Facilities Fund (CSRFF).

(3) Funding is generally allocated on the basis of the quality of a development plan submitted annually to the Ministry for Sport and Recreation by the State Sporting Association for the sport. Criteria includes participant numbers, standards of administration, extent of service to members (refer also response to Question 4).

(4) Funding priorities are normally set out in the submitted development plan. However, on occasions, the State Government may wish to target a specific segment of the sport industry and direct assistance to a particular area. For Example, the Club Development Scheme and the Officiating Initiative.

(5) An acquittal statement must be signed accompanied by an audited financial statement and a performance report in the case of development plan funding. For the smaller Sport Club Development grants, only an acquittal statement signed by the Club President is necessary. However, invoices and receipts are required to be retained for a 12 month period to accommodate any random audit.

ATHLETICA BOARD

4090. Mr CARPENTER to the Parliamentary Secretary to the Minister for Sport and Recreation:

With respect to the AthleticA Board -

(a) what is the role of the Board;

(b) what are the names and qualifications of the members of the Board;

(c) how were they appointed; and

(d) are any members of the Board remunerated, and if so, which members, and what is the level of remuneration?

Mr MARSHALL replied:

(a) To oversee the management of the sport of athletics in Western Australia as outlined in their constitution.

(b) Rod Carter [Chairman] - businessman
Graham Stevens - building industry product manager
Peter Gianoli - management consultant
Alan Tranter - management consultant
Catherine Sutherland - marketing manger
Phil Badock - public servant.

(c) Appointments are by the Minister.

(d) No Board members are remunerated for Board member functions.

ATHLETICS STATE HEADQUARTERS STUDY TENDER

4091. Mr CARPENTER to the Parliamentary Secretary to the Minister for Sport and Recreation:

(1) Can the Minister confirm that a company called Canda Holdings was the successful tenderer to carry out a study on the Athletics State Headquarters?

(2) If yes, who called for tenders to carry out this study?

(3) When were tenders closed?

(4) What other companies applied for this tender?

(5) Which government department made a contribution of $20 000 towards this study?

(6) Did that government department have an input into the tendering and selection process?

Mr MARSHALL replied:

(1) Yes.

(2) AthleticA.

(3) 5pm Wednesday, 17 September 1997

(4) Requests for information on tenders should be made to AthleticA.

(5) Ministry of Sport and Recreation.

(6) No, the funds were a direct grant to AthleticA to allow them to institute a study.

SUPERANNUATION FOR GOVERNMENT EMPLOYEES

4105. Mr PENDAL to the Minister representing the Minister for Finance:

(1) In 1951 were superannuation contributions made by the Government of the day to apprentices and cadets in the Public Service during their training periods?

(2) In the same year, did the Government contribute towards superannuation for teachers in training?

(3) If the answer to (1) above is yes, and the answer to (2) above is no, what was the rationale behind Government Superannuation contributions towards apprentices and cadets and not trainee teachers?

Mr COURT replied:

The Minister for Finance has provided the following response:

(1)-(2) No, as apprentices, cadets and teachers in training were not eligible at that time for membership of the State superannuation scheme.

(3) Not applicable.

OMEX SITE, PROPERTIES ACQUIRED

4120. Mrs ROBERTS to the Minister for the Environment:

With respect to the Omex matter in Bellevue -

(a) will the Minister advise which properties under Improvement Plan No. 30 have been acquired, or had offers made by the Western Australian Planning Commission;

(b) will the Minister advise if the request for public information notice that was placed in the West Australian newspaper under the Fisheries Department was correct;

(c) if it was not correct, how did it occur;

(d) what action if any has been taken to correctly advertise the matter; and

(e) will the Minister advise if the Omex Consultative Community Committee complies with the 1992 *ANZECC Guidelines*?

Mrs EDWARDES replied:

(a) As at the 18 June 1998 no properties related to the Omex site remediation project had been acquired by the WA Planning Commission. However expression of interest to purchase or acquire properties under certain conditions have been made to various property owners within the Improvement Plan area, and negotiations are continuing.

(b)-(d) I understand the Member is referring to an advertisement placed by the Department of Environmental Protection, in the Government Tender Section, seeking advice from technology holders in respect to waste treatment and disposal options that may be suited to the eventual site remediation operation. This is an essential part of the environmental review process, to ensure all options are canvassed. I understand the advertisement appeared in "The Weekend Australian" on 16 May, and was also to be in "The West Australian" on the same day, but an error in the advertising process led it to being omitted from the appropriate section of the paper. It was advertised in "The West Australian" on 20 May at no cost to the Department.

(e) A Consultative Committee for the project has been formed with representation from the community, Local Members of Parliament, the Shire of Swan and government agencies. The Committee complies with the general outline of the suggested protocol described in the 1992 ANZECC Guidelines for the Assessment and Management of Contaminated Sites.

SPORT LOTTERY FUND GRANTS

Women's Initiatives

4123. Ms WARNOCK to the Parliamentary Secretary to the Minister for Sport and Recreation:

In relation to the Government Two Year Plan for Women (1996-1998) -

(a) has the Ministry of Sport and Recreation encouraged organisations receiving funding through the Sport Lottery Fund to provide specific initiatives for women;

(b) if yes, what have been the results achieved; and

(c) if not, why not?

Mr MARSHALL replied:

(a) Some sporting organisations receiving assistance through the Sports Lottery Account cater for women only, others for men only and the remainder cater for both genders. All sporting organisations are encouraged to provide programs which cater for the needs of members irrespective of gender. In particular, the Women's Sport Foundation receive an allocation of $200 000 per annum for a variety of programs designed to encourage participation in sport and physical activity.

(b)-(c) A comparison of 1993 and 1996 Sports Census female player registrations indicates progress for some State associations and a reduction for others. For example, women's hockey achieved a 77% increase, women's rowing a 38% increase, women's rugby league a 329% increase. However, other sports were unsuccessful in achieving increases. Specific details are contained in the Ministry of Sport and Recreation's 1996 Sports Census. The Ministry of Sport and Recreation does not have the participation figures for women involved in leisure programs offered in local government recreation centres.

SPORT AND RECREATION VENUES

Child Care Facilities

4124. Ms WARNOCK to the Parliamentary Secretary to the Minister for Sport and Recreation:

In relation to the Government Two Year Plan for Women (1996-1998) -

(a) has the Ministry of Sport and Recreation provided planning advice for the provision of child care facilities in sport and recreation venues;

(b) if yes, to what venues was this planning advice provided;

(c) has the advice been acted upon; and

(d) if no to (a), why not?

Mr MARSHALL replied:

(a) Yes, the Ministry of Sport and Recreation has provided planning advice for the provision of child care facilities in sport and recreation venues.

(b) The general public and all Community Sport and Recreation Facilities Fund (CSRFF) applicants have been provided with information regarding provision of child care facilities through:

(1) CSRFF applicants' pack.

(2) A series of "How To" kits.

(3) Direct consultancy during the preparation of grant applications.

(4) Women's Sport Foundation publication "Child Care"- guidelines. for sport, recreation and fitness organisations.

(5) Womensport West facility planning guidelines.

Specific examples of recently built facilities which contain child care facilities include:

(1) Wanneroo Netball and Community Centre;

(2) Katanning Recreation Centre; and

(3) Waroona Recreation Centre.

(c) As far as can be determined, advice to ensure equitable access by families, including adequate provision of child care facilities, has been acted upon. Ministry of Sport and Recreation programs promote increased participation in physical activity by all sections of the community. Adequate provision of child care facilities is seen as being essential to allow increased family participation and therefore remains a priority of government.

(d) Not applicable.

WOMEN'S SPORT FOUNDATION OF WA FUNDING

4125. Ms WARNOCK to the Parliamentary Secretary to the Minister for Sport and Recreation:

In relation to the Government Two Year Plan for Women (1996-1998) -

(a) has the Ministry of Sport and Recreation continued funding and administrative support for the Women's Sport Foundation of Western Australia building on the success of programs such as the Active Achievers Program, Sportswoman of the Year Award etc;

(b) if yes, will the Minister provide detail of -

(i) the funding;
(ii) the administrative support;
(iii) to which organisations; and
(iv) how much has been provided to each organisation?

(c) if not, why not;

(d) has the Ministry continued to provide administrative support to the regional officers in -

(i) Esperance;
(ii) Albany;
(iii) Bunbury;
(iv) Kalgoorlie; and
(v) Geraldton;

(e) if yes, give details of support provided; and

(f) if not, why not?

Mr MARSHALL replied:

(a) Yes.

(b) (i) Financial support to the Women's Sport Foundation from the Sports Lottery Account totalled $200 000 in 1998/98.

(ii) Administrative support for the Perth head office includes access to photocopies, information technology, phone, office space [and maintenance]. The Foundation contributes to costs.

(iii)-(iv) There is only one organisation ie the Women's Sport Foundation of Western Australia Inc. Trading as Womensport West.

(c)-(f) (i) Esperance - not applicable, no MSR regional office exists. The Foundation's regional officer works from home.

(ii)-(v) Yes, to varying degrees with shared costs.

KARRI, "MALTHOUSE" LOG

4135. Dr EDWARDS to the Minister for the Environment:

(1) When was the "Malthouse" karri log felled?

(2) Why did it remain so long in the coupe?

(3) When did the "Malthouse" log have its crown removed?

(4) Who authorised the action?

(5) Where were each of the sections then taken?

(6) Will the Minister table the relevant log delivery (consignment) notes and mill landing records for this timber?

(7) If not, why not?

Mrs EDWARDES replied:

(1) The "Malthouse" log was felled sometime between July and September 1997, the period during which harvesting was carried out in an area known as Lane 3.

(2) Trees are cut into their various products at the stump, moved to a bush landing and sorted into different log products depending mainly on species, length, diameter, degree of rot and shape. The log did not meet the specifications for a first or second grade sawlog mainly due to the extent of rot and the presence of double heart. The log was therefore set aside at the bush landing and stock piled until programmed for delivery to the Diamond Mill.

(3) Logs have their crown removed when the tree is felled and cut into its various products see (1).

(4) Felling in Lane 3 was authorised by the Forest Officer in charge of harvesting and the Regional Manager in May 1997. This is done through endorsement of the Pre Harvesting Checklist (Native Forests) which approved harvesting for the 1997 harvesting year.

(5) Individual logs from each tree are not recorded separately. The Forest Management Regulations 1993 requires the removal of log timber to be recorded on the basis of truck loads of log timber through the use of Log Delivery Notes. Log Products from Lane 3 were delivered to the following locations:

Whittakers Limited - Greenbushes
Bunnings Forest Products Pty Ltd - Deanmill Sawmill
Bunnings Forest Products Pty Ltd - Pemberton Sawmill
Bunnings Forest Products Pty Ltd - Diamond Mill
Middlesex Mill Pty Ltd - Manjimup
Goldendale Pty Ltd (trading as Midway Sawmills) - Northcliffe
K P Wren Pty Ltd (trading as J & K Sawmillers) - Manjimup
John Kenneth Mitchell (trading as Smithbrook Milling) - Manjimup
N G & L B Thompson - Manjimup
Timber Traders Cockburn - Spearwood
C D Mottram & Son - Manjimup
AusWest Timbers Pty Ltd - Busselton

(6) Where logs are measured by weight using a weighbridge, individual logs are not recorded separately. Therefore there was no Log Delivery Note which specifically recorded the "Malthouse" log. The log was part of a trip delivered to the Diamond Mill on the morning of 8 June 1998. There were 4 Log Delivery Notes recorded for the morning of 8 June. I table copies of these Log Delivery Notes along with the Mill Transfer Log Delivery Note which covered the log delivered to the Manjimup Timber Park. [See paper No 1528.]

TOURISM, SOUTH WEST

4139. Mr BROWN to the Parliamentary Secretary to the Minister for Tourism:

(1) Is the Minister aware of a radio interview with Robyn Morris of the Edith Cowan University concerning tourism in the South West?

(2) Is the Minister aware that the Edith Cowan University has been advised by tourists that the South West lacks appropriate tourist information?

(3) Does the Minister/Western Australian Tourism Commission intend to take any action on that finding?

(4) If so, what action will be taken?

(5) When will it be taken?

(6) If not, why not?

Mr BRADSHAW replied:

(1)-(6) No, I am not aware of this interview. If the member would care to provide me with more detail, I would be only too happy to answer his question.

FOREST MANAGEMENT REGULATION No 128D(3)

4156. Mr BROWN to the Minister for the Environment:

(1) Is the Minister aware of Regulation 128D(3) of the Forest Management Regulations made under the Conservation and Land Management Act 1984?

(2) Will the Minister explain why such a regulation is necessary and appropriate?

(3) How many infringement notices for a breach of that regulation were issued between -

(a) 1 April 1997 to 31 December 1997; and
(b) 1 January 1998 to 1 June 1998?

Mrs EDWARDES replied:

(1) Yes.

(2) An offence for camping on State forest or timber reserves without the authority of the Department of Conservation and Land Management was introduced by the Forest Management Amendment Regulations 1996. The offence is similar to that which applies for unauthorised camping on national parks and nature reserves. Camping in an area not marked by the Department of CALM as a camping area can cause management and safety problems. These problems include increased fire risks, impeding visitor access to popular day visit attractions, erosion associated with vehicle access and visitor safety concerns. The regulation is appropriate and necessary.

(3) (a) 22.
(b) Nil.

MT HENRY NURSING HOME, BED LICENCES

4195. Dr GALLOP to the Minister for Health:

(1) Over the last three years, what was the specific number of nursing home high level bed licences that have been identified for relocation/rationalisation from the Mt Henry facility?

(2) What specific Government and Departmental decisions were taken to allocate these surplus bed licences?

(3) What specific locations were these bed licences allocated to?

(4) Have the licences been formally allocated to these identified locations?

(5) Have the necessary capital developments occurred to physically create and house these transferred places?

(6) How many actual aged residents are now occupying these transferred beds?

(7) If there are any beds identified that have not been formally (that is, statutorily) relocated to new locations, or the physical infrastructure provided to place persons within these beds, then what plans does the Government have to reallocate these beds?

Mr PRINCE replied:

(1) 134.

(2) Recommendation by the Commission to Review Public Sector Finances in August 1993 to transfer State nursing home beds to the private or not-for-profit sector. August 1995 State Cabinet endorsed a major restructure of the provision of public sector nursing home services throughout Western Australia and noting the decision to close Mt Henry Nursing Hospital and replace with a new nursing home on the Mt Henry site. The strategy included the transfer of SGNH bed licenses to relatively "under-bedded" locations, with an emphasis on country nursing home needs.

(3) 40 beds licenses were specifically identified for the new Mt Henry redevelopment. This was changed to 60 after advice from Commonwealth plus industry regarding the viability of the facility.

(4) Current allocation of the 134 beds is as follows:

Vasse Leeuwin (Baptist Homes)	10
Eastern Wheatbelt Multi-Purpose Service	8
Central Great Southern Multi-Purpose Service	10
Murchison Multi-Purpose Service	3
New Mt Henry (Anglican Homes) Nursing Home	60
Unallocated	43

The 60 bed approvals allocated to Anglican homes are expected to be formally transferred by the Commonwealth in August 1998.

(5) The necessary capital developments have occurred for Vasse Leeuwin and are in the process of occurring for the Anglican Homes nursing home on the Mt Henry site.

(6) 10 residents in Vasse Leeuwin facility.

(7) 21 bed approvals are to be allocated to MPS sites and cashed out at the current Commonwealth rate. No decision has been made on relocation of the remaining 22 bed approvals.

MAYLANDS AERODROME SITE

4196. Dr EDWARDS to the Minister for Heritage:

When will the Maylands Aerodrome site be entered into the State Register of Heritage Places?

Mr KIERATH replied:

The Maylands Aerodrome site was entered in the Register of Heritage Places on an interim basis on 15 May 1998.

QUESTIONS WITHOUT NOTICE

ANTI-CORRUPTION COMMISSION

Confidentiality of Witnesses

1332. Dr GALLOP to the Premier:

I refer to allegations that the Anti-Corruption Commission breached its secrecy provisions by releasing to the six drug squad officers who have been stood down, the names of police officers and civilian witnesses who gave evidence against them.

(1) Did Geoffrey Miller QC give assurances to witnesses that their evidence would remain confidential?

(2) Were those assurances broken?

(3) Has the ACC breached its own Act in releasing the names of witnesses and informants to the six detectives?

(4) If so, what action does the Premier intend to take?

The SPEAKER: Order! I suspect that part of that question may call for legal opinion. The Premier does not have to give a legal opinion.

Mr COURT replied:

I have a long answer but it is appropriate I read it out at this time. I am not privy to what takes place inside the Anti-Corruption Commission so I sought advice from the Anti-Corruption Commission for the following response.

Dr Gallop: That is why we gave notice.

(1) Mr Miller ordered that some witnesses' evidence not be published and remain confidential. Those orders were varied by Mr Miller to allow part of the evidence to be given to the Commissioner of Police and the six officers.

(2) When the Commissioner of Police decided to issue section 8 notices to the six police officers he was obliged under the Codd principles to provide them with copies of the material upon which he had acted. Under the Anti-Corruption Commission Act he was not entitled to provide the material the ACC had given him. Accordingly, in the interests of fairness and natural justice, the ACC agreed to deliver a copy of the material to the six officers. Mr Miller QC had varied his confidentiality order to allow this to be done.

The material delivered amounted to approximately 1 500 pages The ACC went through that material to delete the names of informants and substitute a code. The names of the informants were well known to the police officers because they were advised of them during the special investigation. The officers had to be told who they were because the investigation was about their dealings with those people.

In addition, the material provided to the officers included evidence from a number of other police officers who were identified. Their evidence was mainly concerned with police standard operating procedures and whether they had to be followed or whether they were discretionary, as claimed by the six officers. For this evidence to be meaningful to the six officers the names had to be given, otherwise it would be impossible to respond to.

Some evidence by police internal investigators was provided. All the material was provided as a matter of fairness to the officers. If the names of the police officers who gave evidence were not provided there is no doubt the Police Union would have claimed its members were disadvantaged. The evidence of police officers provided to the six officers did not contain information that, in itself, could be characterised as confidential.

(3) No; in the covering letter providing material the officers were advised that they should note that confidential orders related to the enclosed material provided to them have been lifted by Mr Miller QC and that there is nothing in the Anti-Corruption Commission Act 1988 to prevent them from releasing the enclosed material to whomsoever they choose. In addition they were advised that they may not release the names or details of any informants whose names were provided to them during the special investigation.

It appears that the surname of a witness was not deleted in one place and a Christian name in another. As pointed out above, these were names made known to the officer or officers involved during the special investigation and were not new to them. The names in the letter to the officers must be kept confidential.

It appears that as part of its campaign against the ACC, the Police Union and its president are seeking to dissuade honest police officers from providing to the ACC information that is truly confidential - for example, wrong doing by the other officers - by suggesting their anonymity will not be protected.

In relation to the Miller inquiry and other unrelated inquiries by it, the ACC has received from police officers information about the activities of fellow officers that was truly confidential. The names of the officers providing such confidential information will not be released. Clearly the union is seeking to reinforce what Mr Justice Wood described as "the code of silence, which is an uncontrovertible and universal product of police culture" by frightening honest police officers who might come forward with evidence of wrongdoing by fellow officers, into toeing the line.

(4) Not applicable.

BUNBURY BACK BEACH

1333. Mr OSBORNE to the Deputy Premier:

An allocation of $450 000 has been made to the Bunbury Back Beach project in the State Budget.

(1) For what purpose will these funds be directed?

(2) What administrative arrangements will be implemented for the next stage of this Budget?

Mr COWAN replied:

I thank the member for some notice of this question.

(1) The member is correct. The amount of $450 000 has been appropriated to the South West Development Commission to deal with the back beach project in Bunbury. It is sometimes given the title of the Bunbury coastal enhancement project. The funds are for undertaking a detailed engineering design and planning phase and also to commence the process of seeking the necessary approvals for the implementation of the project. The engineering phase will include some geotechnical engineering investigation to quantify the extent of rock walling that may be necessary for the project. That will cost about $200 000. Preliminary work on the rationalisation of Crown land reserves and amalgamating other parcels of land will also be commenced.

(2) The next phase of the project will be progressed by a steering committee which will be chaired by the member for Bunbury - I am sure that will not be news to him - and will comprise the mayor of the City of Bunbury, or his nominee, and representatives from the South West Development Commission, the Ministry for Planning, LandCorp, Department of Land Administration and the Department of Transport. The first task of the committee will be to appoint a project manager to undertake the detailed design phase and to draft a land assembly study for Cabinet approval.

MAIN ROADS WA

Traffic Signalling, Lighting Construction and Maintenance Contract

1334. Ms MacTIERNAN to the Minister representing the Minister for Transport:

I have modified this question in the hope that the Minister will be able to give a comprehensible answer.

(1) Which corporations have been selected to tender for the Main Roads Western Australia traffic signalling, lighting construction and maintenance contract?

(2) Are any of these corporations owned by or connected with the Queensland Government or the Queensland Department of Main Roads?

(3) Was Crown Law advice sought concerning the legalities of the contract being let to an agency or department of another Government?

(4) Why was Main Roads Western Australia not given the same opportunity to tender for this work?

The SPEAKER: Order! I remind members that they should resist the opportunity to include in a question two or three sentences which have nothing to do with it. I would hate to rule questions out of order on the ground that they did not comply with standing orders.

Mr OMODEI replied:

(1)-(4) I understand that the same question is being asked by Hon Bob Thomas in the other place to the Minister for Transport. Therefore, the Minister for Transport will respond to this question.

UNIFORM ELECTRICITY TARIFF

1335. Dr GALLOP to the Leader of the National Party:

I refer to the energy policy of the National Party and to today's announcement of the abolition of the uniform tariff policy for big, regional, electricity customers. Is the reinstatement of the uniform tariff policy still a condition of coalition, as the Leader stated before the last election; or are the interests of regional Western Australians less important to him and his colleagues than is his maintaining the trappings of ministerial office?

Mr COWAN replied:

I would be delighted to visit any of those towns which are part of the non-interconnected system and to debate this issue with the Leader of the Opposition at any time he likes.

Dr Gallop: Let's start in Exmouth.

Mr COWAN: We can start there. When does the Leader of the Opposition want to leave?

Dr Gallop: Any time.

Mr COWAN: This issue has been the subject of negotiation between me and the Minister for Energy.

Dr Gallop: We use the term "sell out".

Mr COWAN: We have reached what I, the National Party and the customers of Western Power in the non-interconnected system - those customers of Western Power are the most important people in this issue - believe to be a good resolution of a very difficult problem. I have indicated to the Minister for Energy that perhaps the most exciting part of this program is the capital investment that will be undertaken by Western Power to bring the major power generating units within the non-interconnected system up to a level of efficiency that can deliver power at a reasonable rate to those who are in that system.

The other important issue is that firstly, the major power consumers will have the opportunity to place some contestability against the operations of Western Power, by inviting people to generate power for them, as opposed to Western Power; and secondly, they will be able to enter into direct negotiations on a contract system with Western Power. I am quite sure those issues will continue to drive power charges down.

Dr Gallop: Sell out!

Mr COWAN: It is not; it is a very good initiative.

BUNBURY COUNCIL BOUNDARIES

1336. Mr BARRON-SULLIVAN to the Minister for Local Government:

I refer to the Minister's decision not to go ahead with council boundary changes in the Bunbury area and to concerns being expressed within the community that this decision could be reversed in the future.

(1) Will the Minister assure the community that any proposal for wholesale amalgamation of council boundaries, such as the creation of a greater Bunbury council, would require a referendum to be held?

(2) How would such a referendum be conducted and would the results be binding?

Mr OMODEI replied:

(1) Schedule 2.1 of the Local Government Act allows for the Local Government Advisory Board to recommend to the Minister the making of an order to abolish two or more local government authorities and amalgamate them into one or more districts, where such a formal proposal has been made to it by the Minister, electors or councils. In this case, the board is to give notice to affected local government authorities and electors about the recommendation. If within one month after the notice is given the Minister receives a request made in accordance with the regulations and signed by at least 250 people, or at least 10 per cent of the electors of one of the districts asking for the recommendation to be put to a poll of electors of the districts, the Minister must require that the board's recommendation be put to a poll accordingly.

(2) The referendum is conducted within and by the local government authority from which the petitioners are electors. If at least 50 per cent of the electors of the district vote, and of those electors of that district a majority vote against the recommendation, the Minister is to reject the recommendation.

GERALDTON REGIONAL HOSPITAL

1337. Mr McGINTY to the Minister for Health:

I refer to the dire financial position confronting the Geraldton Regional Hospital, which has seen 30 per cent of its beds closed in recent times.

(1) Has the pharmaceutical company, F H Faulding (WA), threatened to cut off supplies to this hospital because of unpaid accounts?

(2) Have the police been investigating allegations of criminal behaviour at the Geraldton Regional Hospital?

(3) Was $10 000 spent on an unnecessary conference table and chairs late last year while patient services were being cut?

(4) Has lack of funding for maintenance at the hospital meant that the green sludge accumulation in the airconditioning system may prove to be a health threat?

(5) Will the Minister guarantee a funding increase next year to allow the hospital to function at full capacity?

Mr PRINCE replied:

I think this is the third version of this question.

Mr McGinty: It is improving all the time.

Mr PRINCE: It has been getting longer; more bits are being added to it. The first version had nothing to do with the airconditioning and this question now mentions green sludge, rather than grime.

(1) I was prepared to answer this question yesterday. On 10 June, Faulding advised it would not fill any further orders until the issue of outstanding accounts was resolved. There were discussions between the finance manager at the Geraldton Health Service and Faulding. Payment of outstanding accounts has been made. The issue has been resolved.

(2) Yes. As far as I am aware those investigations are continuing. I know no more, and if I did, I would not answer that in a public venue in any event.

(3) No. Over 12 months ago $2 600 was spent on a conference table, and it was very necessary.

(4) I am informed that some grime may exist. It is not an occupational health and safety concern. It is continually monitored.

(5) The Geraldton health services have been advanced $1m against a 1998-99 allocation to finish this financial year. The commissioning of an independent financial management audit has been undertaken. I table the information.

[See paper No 1527.]

Mr PRINCE: The consultants concerned are Mr Ross Keesing from Prognosis Consulting and Mr Maurice Argento from Arthur Andersen. They commenced their onsite review on 23 June and they should have a preliminary indication of the actual financial position of the health service by tomorrow or early next week. All of this has been done in consultation with the Chairman of the Geraldton Health Service board, Mr Ian Morris.

RURAL SCHOOL BUS SERVICES

1338. Mr MASTERS to the Minister representing the Minister for Transport:

Some notice of this question has been given. Some concern has been expressed by schools within the Vasse electorate at the relatively short period available for public submissions on the review committee reporting to the Minister for Transport on rural school bus services. Will the review committee accept public submissions for a longer period?

Ms MacTiernan interjected.

Mr OMODEI replied:

The member would know that the other question was being asked.

Ms MacTiernan: Not at all.

Mr OMODEI: The Minister has provided a response. I thank the member for Vasse for his ongoing interest in the review committee report on rural school buses and the bus services. The submission period will be extended -

Several members interjected.

The SPEAKER: Order! One of the messages I am trying to get across to members before we close the session is that they should not interject about side issues that have nothing to do with the question.

Mrs Roberts: We should sit another week and learn our lesson.

The SPEAKER: If the member interjects again, I will teach her a lesson.

Mr OMODEI: The Minister has indicated that submissions will be accepted for another two weeks, until 31 July 1998.

WORKPLACE AGREEMENTS

1339. Mr RIPPER to the Minister for Resources Development; Energy; Education:

I ask this question in respect of each portfolio area.

(1) Is the Minister aware of statements by his colleague the Minister for Labour Relations that it is state government policy for all new state public sector employees to be employed on workplace agreements?

(2) Does this policy apply in agencies for which the Minister is responsible?

Mr BARNETT replied:

I thank the member for some notice of this question.

(1)-(2) Many of the employees of agencies for which I have responsibility are employed under workplace agreements. Indeed, all 230 teachers in the remote teaching service have signed workplace agreements. They are progressively spreading through Western Power and the Department of Resources Development. Most teachers are employed under an enterprise bargaining agreement and the agreement reached with teachers allows for that or a workplace agreement.

TRANSPORT ASSISTANCE FOR STUDENTS REVIEW

1340. Mr BRADSHAW to the Minister representing the Minister for Transport:

Parents of students attending non-government schools in country areas are concerned that proposals contained in the transport assistance for students review have the potential to increase the total cost of educating a child by up to and in some cases in excess of $1 000 per year per student. Will the Minister assure the House that transport assistance for country students will not be reduced?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

> The review of transport assistance for students is due to report to the Minister for Transport in September 1998. At that time the Government will consider the recommendations made. In the meantime, full community consultation will continue. The Government has not made any decisions to increase fees for students.

DISABILITY SERVICES ACT REVIEW

1341. Mr CARPENTER to the Minister for Disability Services:

(1) I refer to the recently completed review of the Disabilities Services Act and ask whether the Minister will release the report to the public as recommended by the review team's independent chairman, Mr Gus Irdi?

(2) If yes, when?

(3) If not, why not?

(4) Does the report recommend against combining Disability Services with other portfolios in another or a new ministry?

Mr OMODEI replied:

(1)-(4) The task force looking at the review of the Disability Services Act has completed its work. That information will not be released for public consumption; it is a report for the Minister.

Mr Kobelke: Minister for hiding everything!

Mr OMODEI: I am not hiding anything.

It is not usual for reports of that nature to be released for public consumption. I assure the member that some of the recommendations deal with a separate Disabilities Services Commission, as is the case now. That legislation is to be reviewed by the end of this year. The board's report to me on the veracity of the issues raised by the task force will provide the basis for drafting instructions to amend the legislation should that be deemed necessary.

DISABILITY SERVICES ACT REVIEW

1342. Mr CARPENTER to the Minister for Disability Services:

Will the Minister confirm that the independent chairman recommended strongly that the report be released not only publicly but also to the Opposition? Why is he going against that recommendation?

Mr OMODEI replied:

I will have to check that with Mr Irdi. At the moment, the report is before me and is being referred to the Disability

Services Commission board for its comments to ensure that the facts that have been gathered in the consultation process are correct. The task force consulted widely around the State. The report will form the basis of any amendments to be made to the legislation. I understand it is not usual for those reports to be released to the public.

BALGA NEW LIVING PROGRAM

1343. Mr BARRON-SULLIVAN to the Minister for Housing:

Some notice of this question has been given.

Will the Balga action group be successful in its bid to have all five blocks of three storey flats in that area demolished as part of the expanded and very successful New Living program?

Dr HAMES replied:

We had a tremendous function this morning at which the Premier officially launched the new building to be operated as the new north component in Balga. We also conducted the official signing with the McCusker-Satterley group, which is doing the Girrawheen, Koondoola, Balga, Westminster and Armadale component, and with Fini Homes, which is doing the Karawara component.

As members are aware, some controversy has surrounded this project. The Balga action group is strongly opposed to the retention of the three storey Homeswest units in that area, despite the fact that redevelopment of similar units has been very successful in the member for Peel's electorate.

The Government was very pleased to announce that 263 of the units - the three major complexes - will be demolished. That was greeted extremely enthusiastically by the group of local residents present. However, we are facing an ongoing minor controversy because two small blocks - 16 flats in each - were not included as part of the package. The residents still want them demolished. The Government has given a commitment to reconsider those units to establish whether it is possible to include them in the project. Nevertheless, the local action group has been very successful in making its views known and the Government has been very pleased to cooperate. The local residents have promised to meet with me and bring a hammer each to demolish the units.

GOODS AND SERVICES TAX

Effect on Small Business

1344. Dr GALLOP to the Minister for Small Business:

I refer to the report on taxation reform by the Small Business Development Corporation, which claims that the compliance and administrative costs of a goods and services tax for small business would be so great that it would be more worthwhile to exempt very small businesses from the GST than have them collect it.

(1) Does the Minister stand by his claim made in Parliament earlier this month that small business would welcome a GST because it would be simple to administer?

(2) Will the Minister be lobbying the Howard Government on behalf of Western Australian small businesses for an exemption from collecting a GST, as recommended by the report?

(3) Will the Minister be lobbying the Howard Government for concessions for small business for the development of systems to cope with collecting a GST, as also recommended by the report?

Mr COWAN replied:

(1)-(3) This question expresses a view that is diametrically opposed to the view that was expressed by one of the Leader of the Opposition's colleagues when he indicated that so few small businesses collect taxes in this State that it would be immaterial what happened. Notwithstanding that -

Dr Gallop: I do not think anyone said that.

Mr COWAN: Yes they did.

Dr Gallop: Who was it?

Mr COWAN: I suggest the Leader of the Opposition ask the member for Rockingham.

Dr Gallop: He did not say that.

Mr COWAN: I know he said it.

Dr Gallop: He was talking about wholesale sales tax and comparing wholesale sales tax collections with a GST.

Mr COWAN: Yes, and he made the claim that small businesses do not collect it.

The point that needs to be made in this exercise is that the report to which the Leader of the Opposition referred reached the conclusion that a goods and services tax, if applied correctly, would provide lower compliance costs for small businesses in this State. That is something with which I agree. It is very difficult to quantify the cost of compliance with the existing tax laws that the Commonwealth Government applies, because not too many people are able to talk about the volume of business -

Dr Gallop: It has been done.

Mr COWAN: Does the Leader of the Opposition know the range of costs? There was no average. It was stated that the range of costs associated with compliance varied between $15 000 and $65 000 for businesses which were defined as small businesses. In that sense, that is a significant cost. The application of a goods and services tax will, I am sure, reduce the cost of compliance. For that reason, I support the Small Business Development Corporation's statement that a goods and services tax will reduce compliance costs and should, therefore, in its terms be supported.

GOODS AND SERVICES TAX

Effect on Small Business

1345. Dr GALLOP to the Minister for Small Business:

I ask a supplementary question. Under what conditions will it reduce compliance costs?

Mr COWAN replied:

I will not at this stage do the work of the Leader of the Opposition. I gave him the report so that he could find that out for himself!

SCHOOLS, MANDURAH AND PEEL

1346. Mr MARSHALL to the Minister for Education:

The announcement to build a senior campus and a Halls Head middle school in Mandurah by 2001 has been greeted enthusiastically by my constituents. There is concern, however, that Mandurah, Coodanup and Halls Head will all be middle schools, catering for only years 8, 9 and 10. Can the Minister explain why this is so, and what benefit that will provide to education within my electorate?

Mr BARNETT replied:

I thank the member for Dawesville for the question. The reorganisation of education at the secondary level in Mandurah and Peel has allowed us to achieve in one swoop what I believe is a very good model. That is, as the member said, to build a new senior college as part of the TAFE-Murdoch University complex, which will cater for years 11 and 12; a new middle school catering for years 8, 9 and 10 at Halls Head; to convert Coodanup, which has a student population at its capacity; and to refurbish, at a cost of about $1m, the existing Mandurah Senior High School into a middle school. The area will have three middle schools, each with a student enrolment of around 550, and one senior college with an enrolment of around 750.

The students in the middle school will receive a major part of the benefit. Years 8, 9 and 10 - the adolescent years - tend to be the time when students lose the plot in their study programs. That period of adolescent development is often a time of distraction for young people. Middle schooling will operate quite differently. A curriculum will be tailored to suit the needs of the individual students and will operate in the form of a team of about 100 students, with eight to 10 teachers assigned to work with that group. When we think of the transition, children in a primary school are typically in a classroom with one teacher. When those children go into a typical senior high school, they may have a dozen different teachers and move from class to class. The middle school arrangement will be a midway point and will allow a far better transition from primary through to secondary and upper secondary education. A lot of work will be done in the area. There are strong educational reasons for having middle schools.

ANTI-CORRUPTION COMMISSION

Breaches of the Act

1347. Mrs ROBERTS to the Premier:

What action has the Premier taken in response to a written complaint that he received last month from former Acting Assistant Commissioner Mr Bob Ibbotson alleging that the Anti-Corruption Commission had breached sections 52(1)

and 54(1) of the Anti-Corruption Commission Act? Has the Premier moved to have those allegations investigated; and, if so, what was the result?

Mr COURT replied:

I must apologise to the member for Midland. Did the member give me notice today of that question?

Mrs Roberts: Yes - this morning.

Mr COURT: I have not received notice of that question.

Mrs Roberts: Can I get a written response later in the day?

Mr COURT: Yes. I apologise for that. The member should check to see whether she sent it, but I have not received it.

CAPEL PRIMARY SCHOOL, DRAINAGE WORK

1348. Mr MASTERS to the Minister for Education:

The Shire of Capel has been seeking Department of Education financial support for the completion of drainage works around Capel Primary School.

(1) Has the Minister agreed to provide funding for this urgent project?

(2) Are any conditions attached to the provision of this funding?

(3) When are the works likely to proceed?

Mr BARNETT replied:

(1)-(3) I thank the member for Vasse for this question. I visited Capel Primary School with the member in November last year; and following that visit I had discussions with the district officers, the school principal and the Shire of Capel. The problem with regard to drainage around Capel Primary School is quite serious and has existed for several years. I advise the member that the Education Department will provide $77 000 as a contribution towards upgrading the drainage. It is anticipated that the Shire of Capel will fund associated roadworks. There is no condition on the Education Department's grant of $77 000 to the Shire of Capel to undertake that work.

PETROL PUMPS

Failure to Meet Standards

1349. Ms MacTIERNAN to the Minister for Fair Trading:

We are pleased to see that the Minister is finally off his sick bed! Now that it has been shown that consumers are the overall losers from the 28 per cent of petrol pumps that fail to meet standards, what action is the Minister proposing to take to restore consumers' confidence that they are getting what they pay for; or is the Minister happy with his ministry's response, which has been to cut the number of pumps examined by more than two-thirds?

M SHAVE replied:

Mr Speaker, I am very glad that you were gracious enough to give the member for Armadale the latitude to ask this question, because I was getting very worried about her! I felt I was on a promise that I would definitely get a question!

Ms MacTiernan: You read the report and got so sick that you had to go home for two days! You will be a great Premier!

Mr SHAVE: I was on my deathbed for two days last week -

Ms MacTiernan: That is how bad the report was!

Mr SHAVE: That did not stop me listening to the radio, talking on the telephone and enjoying the comments of the member for Armadale. I was interested in hearing those comments, and was pleased to receive a copy of a media statement from the member for Armadale. In addition to saying, as she usually does, that the Minister was sleeping -

Ms MacTiernan: You were. Normally you sleep in the Chamber.

Mr SHAVE: The member should tell me to take a Mogadon.

Ms MacTiernan: Your comrade next to you did a runner on Saturday morning and Sunday, and obviously cowardice is contagious. You get into a spot of bother and do not turn up. If you were on a workplace agreement you would be sacked, mate.

Mr SHAVE: I listened to the member's comments, and one of her outlandish press releases stated that the ministry was unable to say whether consumers were being rorted by these faulty pumps because the ministry had kept no summaries of the cause for non-compliance.

Ms MacTiernan: That is exactly what the Auditor General said, and that was the substance of his complaint.

Mr SHAVE: Yes. The member also said that the response of the Minister for Fair Trading to this problem had been to reduce the number of inspections. I address the first part of those comments because it is relevant to the question asked. When these inspections take place, people are given an invoice by the inspecting officer which outlines the problems that have occurred with the pump - whether it is faulty for mechanical reasons or whatever - and a copy is kept at the Ministry of Fair Trading. That has been done for a number of years.

Ms MacTiernan: Why were they not able to provide that information to the Auditor General?

Mr SHAVE: I will explain. The Auditor General found a central register was not kept at the ministry which collated the individual reasons that pumps were not working and the faults related to them. He did not say the information was not there, because it was there. If the Auditor General had asked the ministry to provide, within a reasonable period, a collated analysis of that information, it would have been provided. Because I was concerned that the member for Armadale might want this information, I asked the officers at the ministry to go through all those invoices and collate the information. A question was then asked in the upper House by Hon Norm Kelly, a member of the Democrats, seeking that information. It has been provided.

That register has been kept for the past five years and, interestingly, not one consumer, consumer group or retailer has asked for the information. If they had asked for it, it would have been provided. Notwithstanding that, the Auditor General has suggested it would improve the situation if a register were kept. The ministry will act on that recommendation and on other recommendations made by the Auditor General. It is appreciative of the comments of the Auditor General and will endeavour to improve operations, as all ministries should.

Ms MacTiernan: You said the reason was -

The SPEAKER: Order! I think we are all learning why this is the final question! Perhaps the member for Armadale will listen intently, rather than interject, so that the answer can reach its conclusion.

Mr SHAVE: The department has provided me with details of the testing of retail petrol pumps. It advised that the testing of retail pumps by trade measurements inspectors has not decreased by 62 per cent in the last three years. That is contrary to the member for Armadale's press release. The department provided figures for recent years and, although I will not detail them all, I advise that 2 092 inspections of petrol pumps were carried out in 1993-94, and 1 435 have been carried out in 1997-98 to the end of May.

Ms MacTiernan: How did the Auditor General get it so wrong?

Mr SHAVE: I do not know but, in the area of petrol pumps, with all the fear the member has spread in the electorate, as she usually does -

The SPEAKER: Order! The Minister has now outdone the Premier and all other Ministers in the length of answer given to a question. His answer has just finished and we will move on.
