Parliamentary Debates
(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE ASSEMBLY

Thursday, 23 March 2000

Legislative Assembly

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

WESFI LIMITED, NEW AGREEMENT

Statement by Minister for Resources Development

MR BARNETT (Cottesloe - Minister for Resources Development) [9.02 am]: Wesfi Limited owns and operates softwood-processing factories at Dardanup and Welshpool under the Wesply (Dardanup) Authorization Act 1975. This state agreement Act expires on 22 May 2000 and under clause 32 of the Act, the State is obligated to enter into negotiations with Wesfi for a new agreement, should this be requested. Wesfi has requested that the State commence negotiations for a new 25-year agreement and the Departments of Resources Development and Conservation and Land Management have been negotiating on the terms for the new agreement with the company for some time. Consensus has been reached on a majority of issues; however, negotiations will not be completed in sufficient time for a new agreement to be in place before the existing agreement expires. An extension to the existing agreement is therefore necessary and the State has executed a variation to the Act, which extends the terms of the agreement for a period of 12 months. In accordance with the provisions of clause 22 of the principal agreement, I table the variation agreement.

[See paper No 765.]

IDA CURTOIS SCHOLARSHIP RECIPIENTS

Statement by Minister for Family and Children's Services

MRS van de KLASHORST (Swan Hills - Minister for Family and Children's Services) [9.03 am]: I recently had the great pleasure of presenting the Ida Curtois Scholarship to six young people who were about to commence further studies. These committed young people had one thing in common: They had all suffered traumatic life experiences, disrupted schooling and had been placed in departmental care. It was uplifting to see firsthand their remarkable determination and strong desire to achieve. The presentation of the scholarship not only publicly recognises their hard work but also provides them with financial support for their post-secondary education. I was very proud of them.

The Ida Curtois Scholarship was established in 1990 and serves to fulfil an ongoing commitment by Family and Children's Services to children who are, or have been, wards of the State or who have been placed in long-term care by the department. The scholarship is named after Ida Curtois, a foster carer and president of the Foster Care Association of Western Australia Inc from 1984 to 1990. It is awarded annually to a young person, or persons, aged between 16 and 25 years of age and who will commence post-secondary studies within the next year. The young person will have been placed in long-term care by the department and will have enrolled in the first year of a diploma, certificate or degree course at an approved institution. Their situation often means they have not been able to enjoy the support accorded to children in "traditional" family circumstances. The award provides public recognition of the initiative and resourcefulness of young people who have often overcome extremely difficult backgrounds to complete their secondary education and pursue their goal of post-secondary education. The scholarship provides assistance in their first year of study and can cover such items as books, fees and living expenses. The recipients receive the funding in two instalments. The second is subject to successful completion of the first semester.

More than one award has been presented each year and has usually been in the form of one overall scholarship winner with other applicants receiving educational or encouragement awards of a lesser amount. The scholarships have ranged between $1 000 and $5 000. This year the Ida Curtois Scholarship was awarded to all six candidates for the first time, as the judging panel was unable to decide between the applicants. As such, six scholarships were awarded, four of which were to the value of $3 000 and two to the value of $4 000. It gave me great pleasure as Minister for Family and Children's Services to be part of this award, which provides important recognition of triumph over often difficult and painful circumstances.

NOTICE OF MOTION No 9, REMOVAL FROM NOTICE PAPER

Statement by Speaker

THE SPEAKER (Mr Strickland): Private member's notice of motion new No 9, submitted on 19 August 1999, will lapse and be removed from the next Notice Paper unless written notice is given to the Clerk requiring that notice to be continued.

AUSTRALIND BYPASS, SALE OF LAND

Grievance

MR KOBELKE (Nollamara) [9.06 am]: My grievance relates to a matter at Bunbury, and is directed to the Leader of the House. He is equipped to address this matter through his portfolio for industrial development, although I would have preferred to direct it to the Minister for Regional Development because it also falls within that portfolio. My grievance relates to the sale of 22 hectares of land on the Australind Bypass by the South West Development Commission. This matter was drawn to my attention two or three weeks ago when I was in Bunbury. People said they were scandalised by the Government's preferential treatment of Len Buckeridge in which it gave him this land for a song, contrary to the clear

planning intentions. The South West Development Commission bought the lots of land in various stages between 1987 and 1990. The figures made available to me indicate that the total price paid by the South West Development Commission for the land was $580 253. Mr Buckeridge was able to buy that same land for $506 000 in April 1999; therefore, the Government copped a $74 000 loss on land it had bought over the preceding 10 years. In December 1998, the Valuer General valued the land as rural at $718 000. The land had a higher value, even with a rural zoning. The land was sold to Mr Buckeridge at $140 000 below the Valuer General's evaluation. The Valuer General was aware the land was to be used for industrial purposes, and in February 1999 he valued the land as industrial at $1m. The land was given to Mr Buckeridge to use for purposes which would require an industrial zoning at half the price the Valuer General placed on it.

I will go through some of the key dates relating to the scandal. Mr Buckeridge went to Bunbury in October 1998 and asked the South West Development Commission to show him land that he could use for showrooms, warehousing and other things that can be put under industrial zoning. The South West Development Commission was very happy to show Mr Buckeridge land at Picton that was appropriately zoned. Mr Buckeridge said he was not really interested in that because he wanted land on the Australind bypass, right on the doorstep of Bunbury, land which had a high exposure and was close to where people live in Bunbury and Australind. The South West Development Commission sent a letter to Mr Buckeridge saying that the bypass land was not for sale. It was not for sale for a whole range of reasons, but one was that it contradicted the City of Bunbury's planning scheme. It did so on two bases: Firstly, the blueprint for the region indicated that this area was not intended for commercial development and, secondly, it was not to be allowed on the Australind bypass. There was also a policy for the Australind bypass which was to exclude such developments. Therefore, on two planning grounds the South West Development Commission told Mr Buckeridge that the land was not for sale for industrial use.

In November 1998, Mr Buckeridge met with the Minister for Regional Development and at that meeting, the minister was given a briefing note from the South West Development Commission stating that the land should not be sold to Mr Buckeridge, for whatever reasons - and we can go into those later. The South West Development Commission informed Mr Buckeridge after the meeting with the minister that the land was now for sale. In December 1998, the South West Development Commission discussed the rezoning of the property from rural to development so that it could be sold, presumably, to Mr Buckeridge. It was suggested that might take some time but the process was initiated in January 1999 by the South West Development Commission engaging a consultant, Mr Greg Rowe, to prepare rezoning documents. It is strange that Mr Greg Rowe regularly does Mr Buckeridge's rezoning and development work. For some reason, the South West Development Commission took on Mr Rowe to do its rezoning, knowing that there was a proposal to sell the land to Mr Buckeridge. While it initiated the rezoning in terms of starting the preparatory work, the land was then sold as a rural zoning at a price that I have indicated is approximately half the value placed on the land by the Valuer General for industrial purposes.

There was then a second change of heart when the decision was made not to push through with the rezoning, to get through the problems, and to maximise the return on the land to the South West Development Commission. The land was to be given to Mr Buckeridge for a song so that he could put through the rezoning and he could pick up the windfall profits of approximately half a million dollars. There were special considerations provided on planning requirements to allow Mr Buckeridge to put in place a development which was contrary to the planning scheme laid down by the City of Bunbury for this area. Not only were things moved through very quickly to enable Mr Buckeridge to proceed with the rezoning which he seeks, and to put in place showrooms and warehouses in an area that was not ever intended for that purpose, but also the South West Development Commission has not fulfilled its responsibility to maximise the return on its asset to ensure at least that it got the best value for its land. It disposed of that land on preferential terms to Mr Buckeridge at half the valuation that was provided by the Valuer General early in 1999. It is no wonder that the people of Bunbury think this is absolutely scandalous - that this Government is only willing to do deals for its mates and is not looking after the public interest and the people of the southwest.

MR BARNETT (Cottesloe - Leader of The House) [9.13 am]: In the absence of the Deputy Premier and the minister responsible for the South West Development Commission, I will provide the following response. The land is known as the Glen Iris land and it has been sold to BGC, a Buckeridge company. The land consists of a number of lots totalling approximately 22 hectares. It is located on the Australind bypass on the corner of Johnson Road, opposite the Myles service station. The land was acquired in the late 1980s and early 1990s as a strategic acquisition to facilitate a proposed expansion of the Bunbury port. The land was to be utilised for the diversion of the Preston River. The land was acquired on a negotiated basis rather than on compulsory acquisition and, as such, premium prices reflecting this requirement were paid at the time of purchase.

In early 1999, the commission was advised that the land would not be required for port expansion purposes and new plans for the future of the port were released. The commission had the position that the land was no longer required for the reason it was initially purchased and, as such, was surplus and should be disposed of. The commission was aware the land had strategic potential for development but also had serious constraints. These included the fact that much of the land is low-lying and floods in winter. Any development would require significant fill and drainage works. Sewerage was likely to be a development condition as well as underground power based on the commission's experience in industrial land development at Picton.

In order to obtain the best price for the asset on behalf of Government, it was decided to undertake initial feasibility assessment to change the zoning to industrial-port related purposes. Discussions were entered into with the City of Bunbury and the final conclusion was that rezoning was possible. At that point, the commission decided not to proceed for the following reasons. The commission's objective of raising the potential valuation on the land from rural to developmental

had been achieved thus improving the land's marketability. There were risks associated with proceeding with a development application as there was no certainty that the City of Bunbury would eventually approve a rezoning. This was judged to be an unacceptable risk. Development costs on the land should works be undertaken by the commission suggested that the development would not be commercially acceptable, taking into account risk and profit. A preliminary analysis only was undertaken on this point. There was likely to be a considerable requirement for roadworks relating to traffic conflict with the Australind bypass.

The commission obtained legal advice to draw up a tender framework. Expressions of interest were sought to obtain the services of real estate agents to manage the tender process. Tenders were called for through a wide public advertising process with a substantial period allowed for tender presentations. The appointed agents managed all tender inquiries. Tenders were evaluated by a panel consisting of an independent chair, Christie and Associates, John Ellis from LandCorp and Don Punch representing the commission. Four tenders were received. BGC was the highest bid but the bid contained unacceptable sale conditions. Legal advice was sought and the panel subsequently agreed that BGC should be approached to consider making its offer unconditional. That was agreed to by BGC. Further advice was also sought from the Valuer General's office concerning the value of the land based on potential development costs. On the basis of the advice received, BGC's tender was deemed to be acceptable and the property was subsequently sold. The commission originally purchased this land for specific high-profile purposes associated with the expansion of the port. The subsequent change of the ports plan has considerably diminished the value of the land. The commission subsequently undertook reasonable steps to recover some of the value by assessing and marketing the potential strategic value of the land as a means of improving its value beyond a rural zoning. In doing so, it should be noted the subject land is low-lying and flooded, further diminishing its value.

From my assessment of the report, I see nothing improper or incorrect in that land transaction.

GRANNY SPIER'S COMMUNITY HOUSE, FUNDING

Grievance

MR BAKER (Joondalup) [9.17 am]: My grievance is directed to the Minister for Family and Children's Services and relates to the funding crisis that will be experienced by a local community group, Granny Spier's Community House Inc, in July this year, when the City of Joondalup's top-up funding for the group's creche services will cease.

I understand that the minister is well aware of the history of this important group based in the northern suburbs of Perth and that she is well aware of the various types of services that this group has been providing to the families of the northern suburbs of Perth for over 20 years. As the minister would be aware, Granny Spier's Community House has a three-year service agreement with her department which expires in September next year. The agreement requires this group to provide a variety of services to the people of the northern suburbs. It is important to give some examples of the various types of services that the group is required to provide under the terms of the service agreement. The services include supporting parents, including individual counselling, and a range of support groups such as a postnatal depression support group, a teenage mothers' group, playgroups, handicapped children's groups and a mothers' general support group. It also provides a range of children's services including playgroups and creche services. The facility also acts as a venue for other agencies in the delivery of their services - I am speaking here of the Mofflyn group, and I am sure that the minister would be very well aware of that group. The target groups of this community group include those groups in the community which are in the greatest need. Some examples are members of the broader community, including socially isolated or disadvantaged people; disadvantaged families with dependent children; community groups and other agencies. As the minister is aware, the group also accepts referrals from Family and Children's Services. This group has won many awards over the years, including an award two years ago for its special kids integrated parent support group scheme, which is widely recognised as being the best such scheme in Australia. One of the key services offered by the facility is its creche. This service overlaps with many of the other services that this important group provides.

In 1982, the former City of Wanneroo agreed to administer a commonwealth child- care grant to fund a creche worker. In addition, the City of Joondalup agreed to provide a top-up subsidy to assist in enabling Granny Spier's Community House to fund all the costs associated with its creche facility. The administration of this grant was transferred to Granny Spier's last year, and my complaint does not relate to the transfer of that grant. During the first half of 1999, the commissioners of the City of Joondalup undertook a review of its funding and staffing arrangements with this group. Until this financial year, the City of Joondalup and its predecessor, the City of Wanneroo, had been providing recurrent funding to Granny Spier's for 15 years by topping up the shortfall in commonwealth and state funding for the operations of this organisation's creche facility. Subsequent to that, the City of Joondalup - ostensibly via its commissioners, who were not elected - decided to cease the recurrent funding arrangement with effect from 1 July this year. Their explanation for this radical departure from previous policy was that it was not in keeping with the city's new community-funding policy. That policy changed without any consultation with the community or this group and certainly without any consultation with the residents or ratepayers of the City of Joondalup. The management of Granny Spier's took the view that the best way to reinstate the shortfall in funding by the city beyond 1 July was to lobby the new councillors of the City of Joondalup. The minister would be aware that local government elections were held in the City of Joondalup in December last year. The view was that rather than muck around and lobby the commissioners to rescind or overturn their decision, the management would wait until the new council was in place in the hope that the new councillors would see this decision was wide of the mark. This issue is yet to be tested with the new councillors - I cannot overemphasise that. However, until this issue is tested, the previous policy and the decision of the commissioners binds the councillors of the City of Joondalup.

The City of Joondalup via its former commissioners sought to justify this unpopular decision in the community by referring to various kinds of direct and indirect funding that the city has been providing to the group over many years. One such argument was that the City of Joondalup provides the facility on a rent-free basis, and so it does; there is no dispute there. However, the point must be made that the State Government via the Lotteries Commission provided the funding to enable this facility to be constructed. Therefore, it stands to reason that this group, which was intended to be the main beneficiary, should not pay rent for this facility. Another argument put up was that the City of Joondalup provides free gardening maintenance services to this group for the verge and garden areas, and this free service costs $3 450 a year. I know that the management challenges that sum. I invite the minister to tour the facility with me so she can see that it would be difficult to justify that expenditure with what is done. The other aspect to this is that the city agreed to provide a once-only operational funding top-up of $8 695, which expires in June this year.

Other arguments advanced in support of defunding this service by the city related to the commissioners' interpretation of the respective roles and responsibilities of the Commonwealth Government, the State Government and local government in the area of community service provision. Their view was that the funding of a creche service should be the responsibility of the State Government and not local government. The key issue is simply whether Family and Children's Services will provide substituted or additional top-up funding to enable the creche facilities at Granny Spier's to be provided in accordance with the same scheme that has provided the facilities over the past 20 years or so. The minister will be aware of the various meetings involving the executive of this group and the City of Joondalup. At the moment it seems as though the matter has reached an impasse. The Federal Government has advised that it will not provide any additional funding for these creche services, and at this point it would seem that the only possible source of this top-up funding would be the State Government. I hope the minister will have some good news for this very important community group.

MRS van de KLASHORST (Swan Hills - Minister for Family and Children's Services) [9.24 am]: Granny Spier's Community House is a valued community organisation which, as the member for Joondalup has just said, offers services to families, individuals and community groups. It focuses on supporting family units and strengthening the community generally. This is demonstrated by the wide variety of activities it provides. These include a range of seminars on topical issues as well as support for groups on parenting, postnatal depression, men's support, parenting of teenagers, play groups, handicapped children and general children's services. The great thing is that a volunteer committee of local residents, incorporated as the Granny Spier's Community House, manages the services. I commend this wonderful group of people and acknowledge the work they do, and also the awards they have won.

The community house is located in Heathridge and has been operating since 1981 with the current building being constructed in 1985 using Lotteries Commission funding on land vested in the now City of Joondalup. I understand that before the community house became an incorporated group, it was originally sponsored by the then City of Wanneroo. Family and Children's Services provide funding of $54 646 a year to Granny Spier's for the operation of the community house and an additional $44 610 to provide a financial counselling service. In addition, some of the externally funded projects operating from Granny Spier's include provision for creche workers, and organisations such as Mofflyn contribute to the ongoing running costs by leasing space to provide an outreach service. As the member for Joondalup has pointed out, the centre also receives an annual grant of $10 554 from the Commonwealth Government towards the cost of providing a creche. I understand that the commonwealth grant was originally administered by the City of Wanneroo and was paid directly as salaries to the creche workers rather than to Granny Spier's. Over the years, that was supplemented by a commonwealth grant. However, following the creation of the new City of Joondalup administration, new administrative procedures and strategic directions were introduced, the goal of which was to ensure all groups were treated equitably to the benefit of all ratepayers in the City of Joondalup. It was within that context that the decision was made to cease supplementing the commonwealth grant. I believe that the management committee has been told that the grant will no longer continue.

I know about the hard work that the member has been doing in trying to find funding. I understand that the member has had several meetings with the City of Joondalup and the various groups to find some alternative funding. I know that even though the member has lent his support to Granny Spier's at this point, none of the alternative funding options has been productive. Family and Children's Services cannot replace the funding that will not be given to Granny Spier's by the City of Joondalup. However, the department is currently working towards the expansion of the occasional child-care program, and 15 places are available in the metropolitan area. That is an ideal opportunity for Family and Children's Services to work with Granny Spier's to assist it to explore the possibility of Granny Spier's becoming involved in this occasional child-care program. This would enable Granny Spier's to be paid to establish a licensed sessional occasional care service for the people who use its programs. As a result of this, and in line with the occasional care funding model, an offer can be made to Granny Spier's for the opportunity to become involved in the current planning process for sessional occasional care placements. I made inquiries about the placements and the subsidy for one child in an occasional care placement is $3 315, which equates to 40 hours a week of child care. Even though this will not replace that which the City of Joondalup is not funding, it is a way in which the department can assist and, at the same time, gain benefit for the children of Western Australia.

I commend the Granny Spier's group for providing the valued service it does for the community in Heathridge and surrounding suburbs. I assure the member that Family and Children's Services will continue to offer support and advice to the management committee in its endeavours. In fact, if it wishes, Family and Children's Services will also help the group with overall funding management and the way it is organised, with a view to assisting it and the community it serves. I commend the member for his lobbying on behalf of this group and wish everyone in the Granny Spier's group success.

JOONDALUP HEALTH CAMPUS

Grievance

MS McHALE (Thornlie) [9.31 am]: I have a grievance directed to the Minister for Health, and I grieve on behalf of Mr Andrew Masters and the experiences he has endured at the Joondalup Health Campus. In doing so, I will raise specifics about this disturbing case and highlight a fundamental problem at the Joondalup Health Campus.

On 22 October 1999, Mr Masters sustained a blow to the skull. He went by ambulance to Joondalup Health Campus and was admitted as a public patient via the emergency department. He was non-responsive, suffering drowsiness, lapsing into unconsciousness and had severe head pains. He was hospitalised overnight. An X-ray showed he had a slight fracture of the skull. On Saturday, 23 October, he was seen by a doctor who told him that the allocated surgeon was not available, and that he should return on Tuesday, 26 October. He returned to Joondalup Health Campus on that date, as arranged, and saw Dr Somerville Briggs. The surgeon took one look at the X-rays and said he should be operated on straightaway. He was operated on that evening. Between the Saturday and the Tuesday he could not eat or move his mouth and he was in severe pain for the four days. Mr Masters has a history of head trauma; a previously fractured skull and eight incidents of head trauma. He was operated on that Tuesday night and had a rod inserted into the skull to put the bones into place, and was discharged on Wednesday by one of the nursing staff.

The issue of greatest concern to Mr Masters is not so much that he was not dealt with on the Saturday, although that was reprehensible from a clinical point of view, but that he has been sent a bill. He has been charged for a consultation on the Tuesday morning and been sent a bill for $95. The bill has been justified by the surgeon on the basis that, although he was a public patient, he was seen as a private patient on that occasion. On no occasion was Mr Masters ever asked whether he was a private patient or public patient; on the contrary his wife told the medical staff he was a public patient and they had no private health cover. His discharge form on the Wednesday morning makes it clear it was a public contract - that is, the language used at the Joondalup Health Campus - and yet he has now been billed for this episode of care. Mr Masters has argued that he should not pay $95; he was a public patient; and it was a continuum of care from the Friday, when he was admitted, to the Saturday. Because a surgeon was not available on the Saturday, he was sent home and that is now regarded by the hospital as a discharge. Therefore, in its eyes he came back to the hospital as an outpatient. However, he was not an outpatient but was in the continuum of care organised by the hospital on the Saturday. On 1 November, he was told by the Joondalup Health Campus that he was listed as a public patient, and there is no doubt about that. However, it is of concern that he was also told it is a well-known practice for patients to be discharged from that hospital and then forced to see general practitioners as private patients. I do not take up that issue at this stage, but I am alerting the minister to that serious comment from within the hospital. Whether he and I see that as a potential rort is another matter, but I put it on the record as something that needs to be seriously investigated.

When Mr Masters queried this with the minister's office, he was told that the onus was on patients to read the signs around the hospital indicating that if they came back for treatment they would be regarded as private patients. How can a man reeling from a head injury, admitted as an emergency patient in an almost semi-conscious state, who knows he is a public patient, be expected to look around the walls and read the signs saying he will not be treated as a public patient but will be treated as a private patient? It is outrageous to expect someone in that condition to read the signs, and it is a ludicrous situation.

To make matters worse, Mr Masters now has been issued with a summons from a debt collector. He argued the case with the surgeon's rooms and was told that the surgeon would vigorously follow up this payment. The original account of $95 has now increased to $131, to cover the debt collector's fees. Mr Masters feels his good name has been besmirched, and his credit record is compromised by this appalling situation. He went into the hospital as an emergency patient, should have been operated on on the Saturday but, because of the surgeon's lack of availability, was sent home. He should never have been discharged and he should never have been charged a consultation fee as a private patient, when he was a public patient in a public hospital. It was a continuous episode of care. On no occasion was his status as a public patient ever in question.

The issue is that the Joondalup Health Campus is not providing public patients with free, accessible care and that ultimately the Government is failing to ensure the hospital abides by its charter. Serious questions need to be asked about the discharge of patients, and there are serious omissions in the service or, at the very least, the management of public patients for whom there is no public outpatient service. He was not an outpatient; he was an inpatient.

I want this account to be retracted and Mr Masters should not be required to pay $131. I also want investigations into the matters raised and, on behalf of Mr Masters and the people requiring a public health system in the northern suburbs, I want these matters to be investigated as a matter of urgency.

MR DAY (Darling Range - Minister for Health) [9.38 am]: I am aware of the issue raised by the member for Thornlie about the treatment of Mr Andrew Masters, and in particular the account rendered to him as a result of the consultation outside the hospital by the plastic surgeon. I will give some background before I comment on that specific case.

As with all non-teaching hospitals, Joondalup Health Campus does not have its own outpatient department. Therefore, if a patient requires to see a doctor outside the hospital in the doctor's rooms, the usual situation applies, as with other non-teaching hospitals, that the cost of the treatment is a matter between the doctor and the patient. I note the member for Girrawheen is in the Chamber and I am sure he would like me to place on the record that he has written to me about this matter. As with all costs of consultations involving patients in doctors' private rooms, the Government has no control over the fees charged. A doctor's willingness or otherwise to bulk bill is an issue that must be determined and discussed between

the patient and the doctor. The same situation applies at other non-teaching hospitals at which patients consult doctors in the doctors' rooms following discharge from hospital. That is the situation at, for example, the Armadale-Kelmscott Memorial Hospital, the Swan District Hospital and the Rockingham and Kalamunda hospitals.

Ms McHale interjected.

Mr DAY: I will come to this specific case in a moment. Therefore, the hospital has a responsibility to inform patients of that situation and explain that in the event of their needing to consult a doctor after their discharge from the hospital, they may be required to pay for that consultation and that if they are concerned about fees, they should discuss the issue with the doctor. For that reason, Joondalup hospital has signs installed in its emergency department which say "This hospital does not have an outpatient department. If you require any outpatient follow-up, you will be referred to either your local doctor or a specialist. In both circumstances the normal fee for consultation will apply. If you have any queries in this regard, please check with your doctor or nurse before being discharged." To ensure that that information is clearly available to patients at the Joondalup Health Campus, I asked officers from the Health Department to visit the hospital yesterday. They confirmed that two signs to that effect are installed in the emergency department. In addition to the signs, patients are given an information sheet upon discharge from the hospital explaining the situation I have outlined; namely, if they need follow-up treatment, they may be liable for the fees involved and it is up to them to claim a rebate through the Medicare system.

In this specific case, there seems to be a difference to the general situation I have outlined, at least on the face of it. As the member for Thornlie said, Mr Masters was initially admitted to the hospital as a result of some injuries. He was discharged a day or two later and was required to see the plastic surgeon in the surgeon's rooms. As a result of that consultation, Mr Masters was soon readmitted to the hospital for operative treatment. There is a reasonable argument that the consultation in the doctor's rooms was an inherent part of the initial course of treatment as opposed to Mr Masters having been discharged and requiring follow-up care.

I am investigating this matter further and will be discussing it in more detail with the Health Department. I will not promise that there will be a change in the current situation but I will be asking further questions about this case and expressing the view that, on the face of it at least, it seems to a different situation to a patient being discharged after his initial treatment is completed and follow-up treatment being required. In that circumstance, patients are normally responsible for those fees as they would be at any other non-teaching hospital. In this case, the consultation appears to have been a core part of the treatment for which the patient was readmitted and operated upon. This matter should be looked at further and I undertake to do so.

JARRAHDALE PRIMARY SCHOOL

Grievance

MR TUBBY (Roleystone - Parliamentary Secretary) [9.43 am]: I have a grievance to the Minister for Education which concerns a small school in the south east of my electorate at Jarrahdale. Jarrahdale Primary School has just over 100 students and for eight years until 1996 it was in the electorate of Armadale and represented by Bob Pearce for four years and then Kay Hallahan for a further four years. When I took over the area in 1996, I visited the school and was a bit concerned about the backlog of minor works and maintenance upgrades which had not been attended to over those years. The school has a very good name and staff, a great principal who went there about three years ago from Karragullen Primary School and a supportive parent body. Over the years, the parent body has done an enormous amount of work on the school. It built a small covered assembly area, but the drainage was not done correctly before the assembly area was constructed - the parents did not have the expertise - and in winter the watercourse and most of the drainage from the school flows under the covered assembly area. Therefore, that area is of no use whatsoever to the school in winter even though the parents did a tremendous job of putting it up and it is of benefit during the summer months. The parent body converted an old lunch shed into a library with some minor works funding from the Education Department. It is a very small library of which the parents are very proud but I believe it is most inadequate for a school of that size in this day and age.

The administration area is another area which was undertaken by the school's parents and citizens association with some minor works funding. The P & C enclosed the end of one verandah and part of the side of another to make offices for the principal and the administration staff. As the school is on a major road which leads to a tourist area and on which logging trucks travel, and it is on the side of a hill, there has always been the danger of balls rolling off the oval, across the road and the children chasing the balls. A fence was applied for some years ago but funding was refused and in the end, with some assistance from Alcoa of Australia Ltd, the P & C put fences up around the school. The school had not been painted for more than 20 years so, in the last Christmas holidays, the P & C painted every room in the school; that was a tremendous effort.

However, the worst part of the school is the toilet block. I have been to many schools throughout the State. I was principal of many and I have taught at many, but the toilet block at Jarrahdale Primary School is the most appalling I have come across anywhere. It is worse than the toilet block we had when I went to the Gutha State School 47 years ago. That is how bad it is. It is an asbestos building built on a sloping hill and all the water from the school drains through it. A couple of years ago the kids refused to go to the toilet at school and waited until they got home. The parents were concerned about that because of the health problems. Peter Barrett from the Education Department came out to have a look at it and agreed that the block was not in a very good state. The P & C has tried to make the toilet block as accommodating as it can and has repainted the block every Christmas holidays for a number of years in an attempt to make it more user-friendly for the children. Last year we managed to get it on the list for an upgrade. It was No 11 on the list and all I can say is 10 other

places in the State must have had really bad toilets because they were funded and Jarrahdale missed out. We hope Jarrahdale Primary School will be first on the list for this year's toilet upgrade and that the problem will go away.

I realise that when we came into government, there was an enormous backlog of maintenance, minor works and new school buildings which needed to be undertaken the length and breadth of the State. It was a huge burden for the Government. The previous Government had been funding the work out of borrowings, particularly for maintenance, and that increased the State's borrowings when that work should have been funded out of the day-to-day consolidated revenue fund. The Government had an enormous problem and I realise that we have upgraded many, many schools and their facilities and have built some marvellous new facilities around the State. The Government has implemented the covered assembly area program, resource centre programs, and canteen upgrades in conjunction with the undercover areas and administration upgrades. However, this school feels that it has been slightly neglected because it did not have good representation for eight years when it was in the seat of Armadale. The school was in the seat of Dale and then Armadale for eight years and is now in the seat of Roleystone. The school feels that it was neglected for those eight years, four of which the Labor Party was in power. The parents feel that because they have been doing all this work themselves -

Ms MacTiernan: You have been in government for past seven years, so they were unhappy with one year of Labor -

Mr TUBBY: Four years of Labor in government and four years of Labor in opposition when the two members ignored the Jarrahdale Primary School. That is disgraceful. I have been working on it for three years and hopefully we are finally getting somewhere. It is a problem but the parents and the school's perspective is that the parents have been doing all the work because it is such a problem. They have been repainting the school and the toilet blocks, putting up fences, building the resource centre and the undercover assembly area and putting all the facilities into the school. The parents feel that because they have been doing that, the Education Department has been doing other schools which still look bad because their parent bodies are not as supportive and the facilities are not being constructed. The parents find themselves in a bit of a catch-22 situation.

If they ignore it, perhaps they will get higher up the list more quickly. However, if they ignore it and the work is not done by the department, their kids will suffer. Therefore, they try to do their best. I ask the minister: Is there any likelihood that the toilet block can be upgraded at the earliest opportunity and that the situation with some of the other facilities at this school can be addressed as quickly as possible? This is a small school in a small community. The community has done all it can, and it now hopes the Government will provide it with some support.

MR BARNETT (Cottesloe - Minister for Education) [9.51 am]: I thank the member for Roleystone for his grievance. The member made some general comments about school maintenance, and he is absolutely right. There was an enormous backlog of school maintenance that had been neglected during the late 1980s and early 1990s, and that required a great increase in the program. I have visited nearly 500 schools since I have been Education Minister, and it is true that the benefits of the increased spending in the past few years are now starting to come through strongly. Most of our schools have had improvements and additions made, and a lot of long-neglected maintenance has now been put in place. The department is continuing to run a large maintenance program. The areas of greatest need are now in two principal categories. The first is schools such as Jarrahdale Primary School, which tend to be smaller and older schools. The second is many of the secondary high schools that were built in the 1950s and 1960s, which are now typically 40 years old and no are longer functional for a modern educational program and need refurbishing. It is interesting that about $1m was spent at the former Maddington senior high school, which is now Yule Brook College, and that $1m that has been spent on that middle school has gone an enormous way towards modernising those buildings.

Jarrahdale Primary School is a fairly small primary school. It opened in 1874 with 11 students. Today it has 100 students in three permanent classrooms and one temporary classroom, plus a preprimary. I agree with the member for Roleystone that the work of the P & C that he described is outstanding, and that for the parents to have painted the school over the summer recess is well and truly beyond the call of duty. Typically, smaller primary schools in semi-rural areas get wonderful support from the parents, and that is appreciated.

The department has an ongoing program of addressing toilet replacements, covered assembly areas and library resource centres in existing schools, and in 1999, about $7.5m was spent on those programs. It is true that while smaller primary schools are entitled to the same quality of facilities as larger primary schools, they often lag behind; and I guess that in making budgetary decisions, it is inevitable that funds tend to find their way to the larger schools with larger numbers of children. However, most of those schools have now been assisted, and I hope that schools like Jarrahdale will now finally get their turn. They were listed in the program, particularly for new toilets, in 1999-2000, but they narrowly missed out. However, I am advised that the Cannington District Office has rated the upgrade of the Jarrahdale Primary School toilets as the highest priority for the coming budget, and on that basis we can be reasonably confident that that work will finally be done.

As the member indicated, I will be visiting that school with him next month.

Mr Tubby: That is a bit of a worry! The last school that you went to you closed!

Mr BARNETT: I have visited 499 that are still open. I look forward to visiting that school and inspecting some of the facilities at first hand, and hopefully we will be able to do something about that most urgent need to upgrade the toilet block. I thank the member for his grievance.

The SPEAKER: Grievances noted.

PUBLIC ACCOUNTS COMMITTEE

Forty-Fourth Report - Review of Auditor General's Reports Nos 1-5 of 1999

MR TRENORDEN (Avon) [9.54 am]: I present for tabling the "Review of Auditor General's Reports Nos 1-5 of 1999", report No 44 of the Public Accounts Committee.

[See paper No 764.]

Mr TRENORDEN: There has been a change in the mode of operation of the Public Accounts Committee. The committee has always examined the reports of the Auditor General, and, as most people in this House would know, that is one of the key roles of the Public Accounts Committee. However, we have done it on an ad hoc basis and often have not reported the results of our investigations to the House because they have been fairly low key and have arrived at a reasonable outcome. However, we have decided to change that practice, because it is important that the House is aware of the issues that are raised in those reports. The committee will now examine the reports of the Auditor General and have a twice-yearly meeting with the Auditor General at which we question him on those reports. We will then present to the Parliament a report in the form that I have tabled.

In accordance with this new approach, the committee has examined five reports of the Auditor General: "Report on the Western Australian Public Health Sector"; "Performance Examination - Proposed Sale of the Central Park Office Tower by the Government Employees Superannuation Board"; "Performance Examination - Lease Now - Pay Later? - The Leasing of Office and Other Equipment"; "Performance Examination - Getting Better All the Time - Health Sector Performance Indicators"; and "Report on the Western Australian Public Tertiary Education Sector - 1998 Annual Reporting Cycle".

Six recommendations were made in the report that I have just tabled. I will not go through them, but the normal procedures of the Public Accounts Committee will apply; that is, ministers will need to respond within 90 days, and the committee will examine the matters that have been raised in the reports.

ACTS AMENDMENT (AUSTRALIAN DATUM) BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mr Shave (Minister for Lands), and read a first time.

Second Reading

MR SHAVE (Alfred Cove - Minister for Lands) [9.57 am]: I move -

That the Bill be now read a second time.

This Bill is intended to facilitate Western Australia's part of a nationwide change in the geographical datum used in this country. A datum is a reference system that defines the location of features commonly shown on maps. There is more than one system in existence. Each system is based on a particular model of the earth. Since 1966, Australia has used the Australian geodetic datum or AGD. AGD is based on a model of the earth which best approximates its surface in the Australian region. However, it is a poor approximation of other parts of the earth's surface. Satellite positioning technology such as the global positioning system is now in common use. This technology is still useable with AGD but needs additional processing to be compatible. This is not understood by the wider community and is therefore a potential source of error. There are potentially disastrous consequences if it results in aircraft or ship navigational error. A geocentric datum is one which best approximates the size and shape of the earth as a whole. Its centre coincides with the earth's centre of mass. By contrast, the centre of the datum to be replaced, that is, AGD, is offset from the earth's centre of mass by about 200 metres.

All jurisdictions within Australia have committed to progressively adopt and implement the geocentric datum of Australia, or GDA, during 2000. Industry and professional associations have been consulted extensively on the move to a geocentric datum.

The geocentric datum of Australia is directly compatible with satellite positioning technology. It will enable closer integration with international coordinate frameworks and navigation systems. It is becoming more efficient to work with the GDA coordinates in an international environment where positioning, navigational and information systems relate to a global earth model. The longer it is left, the more expensive it will be to convert.

Several pieces of WA legislation, such as the Mining Act 1978, the Pearling Act 1990 and the Petroleum Act 1967, specifically mention or define AGD, the datum to be replaced. With continuing advances in satellite positioning technology and related areas, future refinements to the datum could be adopted each 10 years. If such frequent changes to the datum are likely, it will be preferable that datums are not specified within individual Acts.

The effect of this Bill is to remove references to a specific datum in WA legislation. When a reference to a datum is required, that datum will be prescribed by regulations rather than specified in the Act itself. Therefore, any new datum can be adopted by regulations, which will be far more efficient in terms of cost and time than regular legislative change. It should be noted that adoption of GDA will not affect the Australian height datum, which is based on mean sea level and will not change. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

PROTECTIVE CUSTODY BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mr Barron-Sullivan (Parliamentary Secretary), and read a first time.

Second Reading

MR BARRON-SULLIVAN (Mitchell - Parliamentary Secretary) [10.01 am]: I move -

That the Bill be now read a second time.

Prior to 1989 in this State, people found drunk in a public place committed an offence and could be arrested by police and placed before a magistrate to be dealt with at law. This was the only mechanism available to police to take these people from the streets and provide some level of care.

In 1989 drunkenness was decriminalised and the Police Act 1892 amended by inserting part VA which allowed for the apprehension and detention of people intoxicated by alcohol. This was done to ensure they were of no danger to themselves or others and has been found to be an effective way of dealing with people affected by alcohol. Since then it has become increasingly apparent that this amendment does not go far enough, as it focuses solely on alcohol abuse. People abusing both licit substances such as petrol, paint, glue and solvents and illicit substances such as heroin and amphetamines were not the subject of these provisions. There are currently no powers to do anything to provide immediate care for these people when they are found in public places. Police, health and welfare agencies have found themselves powerless to assist until the situation becomes extreme and lives are placed at risk.

This Bill therefore retains the proven and effective provisions of part VA of the Police Act dealing with the apprehension of intoxicated persons, the management of their care, issues relating to the length of detention, their release and review. The Bill goes further by enhancing these existing provisions to provide an ability to take direct action to ensure the care and protection of intoxicated persons, whatever the cause of the intoxication.

In the case of young people, the Bill will allow authorised officers to intervene at the earliest stages of abuse to prevent young people from becoming intoxicated. Authorised officers will be able to take appropriate action, such as the seizure and disposal of any intoxicating substances to prevent continuation of their use. To illustrate this, should an officer see someone's son or daughter placing glue from a tube into a plastic bag, in preparation to use it to get a high, that officer will be able to stop that son or daughter and take away the glue before that young person can become affected.

Members will note there are no offence provisions in the Bill. This reflects its primary aim: To allow authorised officers to remove these people to a safe, secure place to recover from or receive treatment for the effects of alcohol, glue, petrol and the like. In keeping with this concept, these provisions have been separated from the Police Act, which contains offence provisions relating to other matters, to create a stand-alone Act. The legislation will enhance the safety and wellbeing of individuals, as well as the safety and wellbeing of the community.

During this speech I have used the term "authorised officers". Currently throughout the State, Aboriginal community groups have led the way in dealing with alcohol abuse. Volunteer patrols have been set up, working in partnership with their local police, to collect members of their community who are affected by alcohol and take them to a place where they can be cared for. Examples of these patrols are the Kullarri patrol in Broome and the Numbud patrol in Derby.

The Bill will, for the first time, recognise this role and enable the local police to authorise these people to officially carry out this community service on a needs basis. I wish to make it clear that the purpose of this is to recognise those who provide a volunteer service, without payment or reward. They will work with their local police to assist in solving problems relating to all substance abuse in their community.

The Bill is also structured to reduce the number of people detained in police lockups. Under part 5 police will be required to consider all options available before a lockup is used to detain any person. The Bill is structured to maximise the use of family and community support and then the use of sobering-up facilities. A police lockup will be used only as a last resort. The Government has made great progress in providing facilities throughout the State that divert people from lockups. As more of these facilities become available, the number of persons being detained in lockups will reduce. The Bill is structured to allow for this gradual move towards non-custodial care. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

BAIL AMENDMENT BILL 2000

Introduction and First Reading

Bill introduced, on motion by Mr Barron-Sullivan (Parliamentary Secretary), and read a first time.

Second Reading

MR BARRON-SULLIVAN (Mitchell - Parliamentary Secretary) [10.07 am]: I move -

That the Bill be now read a second time.

The Bail Act 1982 aims to create uniform procedures applying to all bail considerations and decisions and to ensure all parties to a decision are made aware of their rights, obligations and duties. The aim of the Bill now before the House is to address a range of procedural difficulties which have arisen with the operation of the Act.

The Act was proclaimed to come into operation on 6 February 1989. Shortly thereafter, it became evident that there were procedural problems with the operations of the Act. Later that year, the then Attorney General appointed a review panel to examine those procedural problems. The Bill incorporates the recommendations contained in the report of the review panel, and also a number of other measures to address other procedural problems which have come to light in more recent discussions with judges, magistrates and others in the justice system.

The Bill principally -

clarifies the process of bail for persons appearing before the court in answer to a summons;

provides that judicial officers, in addition to their existing authority to grant or refuse bail, will be able to dispense with bail in cases of trivial offending;

provides that a defendant who is charged with murder or wilful murder will be considered for bail only where an application has been made by the defendant or his or her counsel;

provides that a decision to refuse release on bail will extend without further consideration where a trial extends beyond one day, unless the defendant or a person on behalf of the defendant applies for bail to be reconsidered;

broadens the class of persons with powers to approve sureties;

clarifies which court officer is responsible for instituting proceedings following a defendant's failure to attend at court in compliance with a bail undertaking;

establishes a formal appeal process to the Court of Criminal Appeal for appeals against bail decisions made in the Supreme, District and Children's Courts; and

extends the period for an initial appearance in court from seven to 30 days to enable a defendant to appear on his or her initial appearance before a magistrate.

I now refer in some detail to the major features of the Bill. The first matter dealt with relates to a release on bail following an appearance in response to a summons. Section 4 of the Act relates to all appearances in court, whether in response to a summons, arrest without warrant or arrest following the issue of a warrant. Some magistrates have interpreted the section literally and have insisted that persons who appear before the court in answer to a summons are to be treated in the same manner as persons appearing before the court following arrest. In this regard, magistrates have required defendants who have answered to a summons to enter into a bail undertaking for their further appearance before the court. This strictly literal interpretation was not the intent of this provision of the Act when formulated. Therefore, the Bill provides that when a defendant has appeared in court in answer to a summons, and the judicial officer adjourns the proceedings, the defendant is not to be detained in custody to further appear. However, this decision can be varied if at any stage of the proceedings it is considered necessary to place the offender on a bail undertaking.

The second matter dealt with in the Bill is the authority to dispense with bail. Section 18 of the Act limits this authority to a police officer, who may dispense with bail in circumstances of certain prescribed simple offences. The completion of bail papers is time consuming and unwarranted in cases of very simple offences. Therefore, the Bill provides the option for a judicial officer, in addition to the existing authority to grant or refuse bail, to dispense with the requirement of bail in cases of prescribed simple offences. As a practical safeguard, this will apply only when it appears to the judicial officer that bail would in any event be granted, and in the circumstances the completion of bail papers is considered an unnecessary imposition.

The third matter in the Bill relates to bail of offenders charged with murder. Under the existing provisions of the Act, persons charged with murder or wilful murder are required, as soon as practicable, to be brought before a judge of the Supreme Court to be considered for bail. This has exposed the State to considerable expense when transferring defendants from remote locations to Perth when, in the majority of cases, bail was not sought either by the defendants or their legal counsel. Indeed, in many cases, consideration of bail in these circumstances has an unsettling effect on defendants. This is particularly so in the case of Aboriginal defendants, who are moved to unfamiliar surroundings for a bail consideration which in all reality is unlikely to be granted.

Under the Bill, a defendant need only be considered for bail in murder and wilful murder cases when an application for consideration of bail is made by a defendant or his or her counsel at any time before conviction for the offence. Importantly, the Bill requires the judicial officer before whom defendants appear in court for an initial appearance to inform them of their right to make an application. It also provides that bail is only to be granted to a defendant on charges of wilful murder and murder for exceptional reasons. I draw the attention of the House to the fact that this amendment does not apply to a child charged with murder or wilful murder. In these cases, it is still a requirement that child defendants be taken before a magistrate of the Children's Court as soon as is reasonably practical for the purpose of having their case for bail considered, irrespective of whether an application for bail has been made.

The fourth matter in the Bill deals with the issue of bail during the course of a trial. Currently, when a defendant has been refused bail for an appearance for trial and the trial extends beyond one day, a judicial officer must consider bail on each

successive day that the trial is adjourned. As this is both time consuming and inconvenient, the Bill provides that bail need not be reconsidered on each successive day of a trial unless the defendant makes an application for bail.

The fifth matter in the Bill relates to the requirement of giving notice to a prosecutor in relation to prospective sureties in every case. Quite often in cases when the prosecutor could not be contacted, this requirement has resulted in unwarranted delay in the release of the accused from custody. Therefore, the Bill provides for notice to the prosecutor only if so ordered by the court. The Bill also broadens the class of persons with authority to approve sureties. Under the Bill, persons so authorised include any person for the time being in charge of a prison and, when the defendant to whom bail has been granted is a child, an authorised community services officer. These reforms address problems at remand centres, both adult and juvenile, when approval of a surety outside normal business hours is problematic. Under the Bill, the bail decision can be made without the need to call in a justice of the peace.

The sixth matter in the Bill relates to current uncertainty as to whose responsibility it is to institute proceedings for failure to attend at court in compliance with a bail undertaking. The Bill provides that in the Court of Petty Sessions and the Children's Court it is the responsibility of the clerk to make a complaint in writing to a justice. The complaint, supported by a certificate as to the defendant's failure to appear, is provided to the Commissioner of Police, who will prosecute the offence of failure to appear. In the Supreme Court, in the District Court of Western Australia, and also in the Children's Court when the proceedings are heard by the President, a registrar will make the complaint. The complaint, supported by a certificate as to the defendant's failure to appear, will be issued to the state Crown Solicitor or to the state or commonwealth Director of Public Prosecutions, as the case may be.

The seventh matter provided for in the Bill is the setting up of a formal appeal process to the Court of Criminal Appeal in relation to bail decisions of a judge of the Supreme or District Courts or the President of the Children's Court. Such appeal rights are not apparent under the current provisions of the Act. The right to appeal will be available to both the prosecution and the defendant against any decision relating to bail, and is limited to questions of law only.

Finally, the Bill addresses the problem that in fixing the terms of bail of defendants for their initial appearance in court for an offence, a justice or an authorised officer is presently restricted to a maximum of seven days commencing on and including the day on which the defendant was arrested for the offence. This restriction has caused considerable problems throughout the State, particularly in remote areas where defendants may have to appear more than once before they can be listed before a magistrate. Therefore, the Bill inserts a 30-day period in lieu of the current seven days. This will enable defendants in most cases to appear on their initial appearance before a magistrate, and in so doing will address issues raised in the report of the Royal Commission into Aboriginal Deaths in Custody.

In concluding, I summarise by saying that the Bill is primarily concerned with procedural matters. Nevertheless, it is an important reform Bill. It affects a range of improvements of benefit to both the individual defendant and to the justice system as a whole - particularly in effecting improvements arising from the recommendations of the Royal Commission into Aboriginal Deaths in Custody. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

CRIMES AT SEA BILL 1999

Second Reading

MR BARRON-SULLIVAN (Mitchell - Parliamentary Secretary) [10.17 am]: I move -

That the Bill be now read a second time.

The Bill is part of a scheme which will simplify the application of the criminal law in waters surrounding Australia. The scheme was developed by the Special Committee of Solicitors General and endorsed by the Standing Committee of Attorneys General.

Jurisdiction over crimes committed at sea was, until the early 1980s, an obscure area of law. Beginning in 1979, complementary commonwealth and state legislation was enacted, designed to divide the responsibility for crimes committed in offshore areas between the Commonwealth and States. The criminal laws of the State were extended to crimes committed at sea with which the State was connected in one of a number of specified ways. The Western Australian statute is the Crimes (Offences at Sea) Act 1979.

The 1979 scheme presents several difficulties. The legislation of the Commonwealth, the States and the Northern Territory takes differing approaches to the issue. Within individual Acts, there are gaps and differences which are not found in other Acts. This adds an element of complexity to what is itself a relatively complex scheme. The imposition of state criminal law upon conduct by reference to the destination of the vessel and the State in which the vessel was registered has proved awkward. The scheme contemplates the possibility that a state authority investigating a crime at sea that was an offence against the law of another State would be bound to follow the investigative procedures of that other State. The existing state of the law is confusing and difficult to understand. It is in this context that the Solicitors General proposed that a clearer and simpler scheme should be devised.

Under the scheme agreed to by the Standing Committee of Attorneys General, the Commonwealth and the States will enact Acts containing an identical schedule that constitutes the scheme for the extraterritorial application of state criminal laws in the sea surrounding Australia - the adjacent area. The adjacent area extends 200 nautical miles from the baseline of the State or to the outer limit of the continental shelf, whichever is the greater distance.

The criminal law of the State is to apply of its own force to a distance of 12 nautical miles from the baseline of the State. Beyond 12 nautical miles, the criminal law of the State is applied with the force of a commonwealth law. The boundaries and baselines of the States and the boundaries to the adjacent areas are described in the map and descriptive material contained in part 6 of the schedule. The scheme does not apply to state and commonwealth laws excluded by regulation from the ambit of the scheme. This is to cater for presently operating schemes relating to subjects such as fisheries.

The authority that is investigating an offence investigates it according to its own procedure; for example, South Australian police investigating an offence that under the scheme is an offence under Western Australian law will investigate it according to South Australian procedures. Where a state offence and a commonwealth offence operating of its own force are being investigated together, the investigating authority will, as at present, have to follow the procedural requirements which are the more stringent.

The commonwealth Act will apply the criminal law of the Jervis Bay Territory to certain criminal acts which occur outside the adjacent area. Jervis Bay Territory law will apply on Australian ships, to Australian citizens on foreign ships who are not members of the crew and on a foreign ship that first lands in Australia after the commission of an offence. The commonwealth Act will also make special provision for the application of criminal laws in the Australian-Indonesian Zone of Cooperation.

Clause 7 of the schedule provides that the commonwealth Attorney-General must consent to a prosecution of an offence committed on a foreign ship that is registered in a foreign country where the offence could be prosecuted in the country of registration. This requirement is necessary to ensure that any prosecution does not involve a breach of Australia's international obligations. Before granting approval, the commonwealth Attorney General must be satisfied that the Government of the foreign country consented to the prosecution in Australia.

Under the scheme, commonwealth proceedings will be run according to the law of the Commonwealth and state proceedings will be run according to the law in the jurisdiction in which the proceedings were commenced. In the example given above, the Western Australian offence would be tried in a South Australian court according to South Australian laws relating to criminal procedure and evidence.

Responsibility for the administration and enforcement of the law relating to crimes at sea is to be set out in an intergovernmental agreement. The agreement will also empower state authorities to perform functions and exercise powers in the investigation of offences as provided for in the legislation. This is provided for in clause 3 of the preamble and part 3 of the schedule.

The agreement will provide that the arrival State - that is, the State in which an Australian ship arrives after an offence has been committed - has primary responsibility for investigating and prosecuting an offence. In general terms, a State will have primary responsibility for investigating and prosecuting crimes committed in its adjacent waters out to the 200 nautical mile limit. The agreement will provide that where more than one jurisdiction is empowered to prosecute offences, those jurisdictions should consult to determine the jurisdiction most convenient for prosecution. It will also provide that jurisdictions should, where practicable, provide assistance to one another in the investigation of offences arising under the scheme.

The intergovernmental agreement will be entered into by Attorneys General once the legislation is enacted in all jurisdictions. Clause 6 requires the minister to have the intergovernmental agreement published in the *Government Gazette*.

Western Australian police rarely encounter crimes at sea - apart from Marine and Harbours Act offences. When they do encounter crimes at sea, they are faced with logistical problems and legal uncertainties. To meet some of those logistical problems, the agreement will provide that the Commonwealth shall use its best endeavours to provide assistance to the State from commonwealth agencies such as the defence forces, the Australian Customs Service and the Australian Federal Police. Such assistance may include the gathering of evidence, the provision of personnel, transport, communication facilities or information. The policing of offences at sea will continue to be difficult operationally and logistically, but this measure will eliminate the legal uncertainties. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CONSUMER CREDIT (WESTERN AUSTRALIA) AMENDMENT BILL 1999

Third Reading

Bill read a third time, on motion by Mr Shave (Minister for Fair Trading), and transmitted to the Council.

PLANNING APPEALS BILL 1999

Consideration in Detail

Clause 1: Short title -

Ms MacTIERNAN: It is appropriate that we look at the response given by the minister during the second reading debate. It was absolutely full of misleading information. It is not clear to me whether this is a case of the minister not understanding this Bill or whether he was, indeed, trying to mislead this place. He made statements that quite simply were wrong, such as that clause 44(1) provides that all decisions are to be kept on a public register. That clause does not say that. These are important provisions that go to the very heart of the openness and accountability of the system that has been established

under this legislation. I take exception to some comments made about the support given by the Western Australian Municipal Association to this legislation. The minister said that generally WAMA supports the legislation. I will read out the motion unanimously passed at the annual council meeting of WAMA on Sunday, 1 August 1999. It reads -

> . . . vigorously oppose the Planning Appeals Bill 1999 with respect to:
>
> a) the wide scope of the Ministers call in power and subsequent erosion of the independence of the proposed Appeals office
>
> b) the inherent lack of openness and accountability of the proposed system
>
> and calls for
>
> a) a commitment for a truly independent appeals system free of possible political interference.
>
> b) an appeals system that include the full keeping of records and disclosure of all decisions and the reasons for those decisions.

If that is considered by this minister to be support for his legislation we in this State are in very grave trouble. We have a minister who is incapable of understanding a very clear message from a major organisation, the WA Municipal Association, that is telling him in no uncertain terms that the very guts of this legislation is rotten to the core. However, he has the cheek to come into this Chamber and argue that, by and large, WAMA supports his legislation. It is unbelievable. I would like to give the minister an opportunity to say he will withdraw this legislation and that he recognises that profound concern exists across the industry.

Denis McCleod, a well-known person in the planning world, convener of the Law Council committee that deals with this area of legislation, and probably one of the most pre-eminent practitioners in this field in this State, says -

> If the Bill is passed, Western Australia will become prominent as the State which has taken a 30 year step backwards in planning appeals, removing the possibility of an independent judicial determination of appeals. If the Bill passes, we will be the only State of Australia which has no court or tribunal providing the opportunity for independent determination of the more difficult and controversial planning appeals, in strict accordance with the principles of natural justice.
>
> The Law Reform Commission, the Commission on Government and the Gotjamanis Tribunals Review have all advocated either the retention of the present Planning Appeals Tribunal, or the establishment of an Appeals Tribunal providing independent merits review of administrative decisions, including planning decisions. Every public forum or professional conference in the last 25 years has favoured at least the retention of the Tribunal system, or even the establishment of a Tribunal based single system with additional jurisdictional options, but never the abandonment of the independent body in favour of a Ministerial type appeals system.

Mr KIERATH: I can understand the member for Armadale making some political statements - that is her right - but some of her claims are wrong. I refer the member to clause 44(1) about halfway down page 20 of today's Notice Paper, to which I referred during the second reading debate. The Notice Paper reads -

> The Minister for Planning: To move -
>
> Page 30, line 4 - To insert after "under this Act" -
>
> "and the decisions made on those appeals".

I made it plain during the second reading debate - I assume the member was not listening - that the proposal was a combination of the Bill before the House and amendments I had agreed to move after consultation with WAMA and other bodies. Perhaps she did not read it; I will highlight it later for her.

Ms MacTiernan: You did not.

Mr KIERATH: I did; I can show her afterwards if someone will get me a copy of the *Hansard*.

Ms MacTiernan: When did you have these drawn up?

Mr KIERATH: If the member for Armadale had read today's Notice Paper she would have seen it, because it can be seen clearly.

The member quoted from a resolution made by WAMA last August. WAMA wrote to me in late December, although I do not have a copy of the letter with me now.

Mr Kobelke: Can you table it before the end of the day?

Mr KIERATH: I will try to. I offered to give a copy of the letter to someone to whom I wrote in reply. That letter indicated WAMA was not opposed to the thrust of the Bill, but it wanted some areas changed before giving the Bill total support. I can accept the point the member for Armadale makes regarding what was said last August, but times have moved on from then. WAMA wrote to me in December after that August meeting and I responded to it in detail listing where I think some of its concerns were unfounded.

Again, I remind the Chamber that I dispute the allegations made by the member for Armadale. If she looks at the facts before the Chamber she will see I am right.

Ms MacTIERNAN: It must be put on the record that this minister has put on today's Notice Paper, presumably at about 9.00 am today, 13 pages of amendments which we are being asked to consider concerning a Bill we are debating less than an hour and a half later. The minister has presumably had these amendments available for some time. The Opposition has recently prepared its amendments because the timetable for dealing with this legislation is completely in the hands of the Government. It has been on the Notice Paper for nine months and we were not confident that debate on the Bill would proceed. The minister is aware that we do not have the resources of parliamentary counsel to prepare amendments to legislation that may or may not proceed. However, for the minister to come in with 13 pages of detailed amendments and expect us to deliberate on them is the height of cynicism. This will be a very slow process. The minister should at least give us a day to go through the amendments to see to what extent they remove the problems we have with the legislation. It is an absurdity to expect us -

Mr Kierath: You are a legislator; you are expected to come in here and deal with them.

Ms MacTIERNAN: We have been given one and a half hours' notice of 13 pages of amendments. The minister said he had been working on this matter with WAMA all last year. When did he have the amendments prepared?

Mr KIERATH: I did not. I said I would have them underway. I am sorry the member for Armadale has not read the amendments.

Ms MacTiernan: They have been there for one and a half hours.

Mr KIERATH: The member for Armadale has double standards. At least my amendments are on the Notice Paper. Her amendments are not there; yet she expects me to respond to them immediately.

Ms MacTiernan: You set the timetable.

Mr KIERATH: She cannot have it both ways. I will help her to do her job. Ninety per cent of the amendments are related to the relationship with the Midland Redevelopment Authority Act and the Heritage Bill, which has stalled. As this debate on this appeal Bill has been progressing we have had to make consequential amendments, so most amendments relate to that. Most are just mechanical changes to accommodate an Act passed by this House and a Bill that has not been passed by this House.

At the time of drafting the Bill, changes were made because in discussions with WAMA we reached some in-principle agreement. The clauses are very simple and are in line with what WAMA was trying to achieve.

Mr Kobelke: How can they be in line?

Mr KIERATH: It is dealt with in clause 44. We must get to it in the debate, and we are only up to the short title. If members think it is unreasonable to deal with any of the clauses, I will be happy to pull them out and delay the Bill on that basis. Most of the amendments are machinery measures, along with a few simple changes to accommodate WAMA's point of view. I understand that members opposite have been attempting to do that in any event. In those circumstances, surely they should be supported. The Leader of the House spoke to me yesterday and said that perhaps in a different situation we might have pulled the Bill and replaced it. Perhaps that is an option for the future. I reiterate: If members have doubts about any clauses, I am happy to put them aside and deal with them at a later stage.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Mr KIERATH: I move -

Page 2, line 18 - To delete "*Heritage Act 1999*" and substitute "*Heritage of Western Australia Act 1990*".

This reflects the situation that this Bill was drafted in the knowledge that the Heritage Bill was before the House. That Bill has not been passed, so we must revert to the original Act. If and when the Heritage Bill proceeds, we will be required to make a consequential amendment. Again, this is a machinery issue because the Heritage Bill has not progressed. I seek the support of members.

Mr McGOWAN: I take up the point raised by the member for Armadale. The minister indicated that many of these are machinery amendments replacing the proposed amendments to the new heritage legislation and the Midland Redevelopment Act. He said that was something we did not need to consider. However, the member for Armadale raised the very good point that this process has been in train for at least nine months. The Government has known it was going to bring on this matter and it has brought the Bill on this morning with a range of amendments, including amendments to the Heritage Act. The Government has known that the Heritage Bill has been off its agenda for at least six months. It was taken off the parliamentary agenda for a very good reason - it was fatally flawed. Like the Culture, Libraries and the Arts Bill, it was going to meet with massive opposition from interested groups. It strikes me as unusual that, having known it would withdraw the Bill six months ago, the Government has decided to come into this place today and propose amendments to that legislation. Surely it could have done that earlier and given the Opposition some time to assess and examine the issues;

the Government has had plenty of time to do so. Why have members on this side not been afforded that opportunity, given that the Government has known for some time that it would not proceed with the Heritage Bill?

Mr Kierath: That is not so.

Mr McGOWAN: I am glad the minister has interjected, because approximately six months ago I presented an hour-long critique of the Bill, as did many other members. Within a couple of days of that critique, the minister said that the Government did not intend to proceed with the Bill at that stage and that it would be redrafted. For the minister to say that that is not true is to rewrite history.

Mr Kierath: It is not true that I said we would not progress the Heritage Bill. You said that we have known for a long time that we would not proceed with that Bill, and I said that that statement is not correct.

Mr McGOWAN: The minister said that the Government would not proceed with the Heritage Bill and that it would be redrafted in light of the criticisms. If he knew that at that stage, why is he introducing amendments today?

Mr Kierath: The member knows that the Heritage Bill is still on the Notice Paper. If it is on the Notice Paper, obviously the Government intends to proceed with it.

Mr McGOWAN: Why is the minister then saying that the Government does not intend to proceed with it?

Mr Kierath: At that stage, I said I would look at some amendments to the Bill. If the member on his feet and the member for Armadale were to read the words I said, they would acknowledge that I said I would either amend it or redraft it.

Mr McGOWAN: What does the minister intend to do?

Mr Kierath: I have not made a decision yet.

Mr McGOWAN: No doubt it is being put off until after the election.

Mr Kierath: I am dealing with some amendments at the moment, and I will meet with some of the parties in the near future to discuss the direction we will take - whether we proceed with it in its current form, amend it, or redraft it.

Mr McGOWAN: That raises another interesting point. Why was the Opposition not warned of this, given that the minister has acknowledged that he has pulled back the Bill? Why would we not deal with the Heritage Bill first?

Mr Kierath: Surely you as a lawyer can deal with mechanical provisions -

The ACTING SPEAKER (Ms Anwyl): It is very difficult for the Hansard reporter to record this kind of exchange. I suggest that the member for Rockingham complete his comments and the minister can then respond.

Mr McGOWAN: We should have dealt with the Heritage Bill first instead of coming back to amend the Planning Appeals Bill in light of new heritage legislation, which is what we will now be required to do.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4: When appeals may be made -

Mr KIERATH: I move -

> Page 4, line 7 - To delete "*Heritage Act 1999*" and substitute "*Heritage of Western Australia Act 1990*".
>
> Page 4, after line 10 - To insert after paragraph (c) the following -
>
> (d) the *Midland Redevelopment Act 1999*;

The first amendment is moved because of the reasons given previously, and the second amendment accommodates the Midland Redevelopment Act, which was passed late last year and dealt with while this Bill was before the House.

Amendments put and passed.

Mr KOBELKE: We have a list of Acts under which a person may appeal and reference is made to "any other written law". The amendments just made indicate that, from time to time, new authorities will be established under the various Acts that have powers in respect of planning matters. Therefore, they rightly should be included in such Bills, and clause 4 needs to take account of those measures. The inclusion of paragraph (h) "any other written law" takes account of that aspect. I have no problem with that sensible drafting. However, "any other written law" suggests that people may be able to make appeals based on matters which have nothing to do with planning. Can the minister explain the technical coverage of the phrase? Does it open the potential for someone, perhaps not successfully, to lodge an appeal with the minister based on something which has nothing to do with planning? I accept that that is not the intent. However, could it potentially open the appeal process outside the scope of the Bill?

Mr KIERATH: That phrase was included by parliamentary counsel. When I read it, like the member, I assumed that parliamentary counsel had specified the statutes of which it was aware, and included paragraph (h) in case any were missed. I do not know.

Mr Kobelke: Is it to take account of future changes?

Mr KIERATH: Under legal precedents, new Acts would apply in any event. Nothing is hidden of which I am aware. It is straightforward.

Mr Kobelke: Is it your understanding that there is no potential for people to submit appeals under this Bill on a matter not specific to planning or heritage?

Mr KIERATH: The other Acts are listed. That is my understanding.

Clause, as amended, put and passed.

Clause 5: How appeal is to be made -

Mr KIERATH: I move -

Page 4, line 22 - To insert after "prescribed" the words "time and".

The amendment is required to tidy up the Bill.

Ms MacTIERNAN: Some provision is needed in relation to time, but I am curious why the legislation does not specify the time within which an appeal must be lodged. Subclause (3) prescribed the time within which a respondent to an appeal must make a decision on whether mediation is wanted. The more important time frame to establish in legislation was the time within which an appeal could be made. It seems an oddity that a fairly insignificant time period is specified rather than the appeal lodging time. It is of sufficient significance that it should have been incorporated into the legislation. Why was it not incorporated? What will be the prescribed time for lodging an appeal, and will it be any different from the current law?

Mr KIERATH: The time and manner of lodging an appeal are currently prescribed in the regulations. This draft of the clause refers to "prescribed manner", and the amendment is to make it "prescribed time and manner".

Ms MacTiernan: Why are you not including the appeal time, given that it is important, apparently, to include the time within which a decision must be made on mediation?

Mr KIERATH: The time traditionally has been prescribed in the regulations, not in the Act. It is currently in the regulations.

Ms MacTiernan: How many days is it?

Mr KIERATH: Three different time periods apply, so only one cannot be included. It is 30 days under the Strata Titles Act; 60 days for a straight refusal; 90 days for a deemed refusal; and 90 days on a subdivision. A range of time frames are involved. It has been traditionally easier to use regulations. The intention is simply to add some words to the provision.

Amendment put and passed.

Ms MacTIERNAN: I move -

Page 5, line 6 - To delete "14" and substitute "28".

This amendment could be expressed in another way. The vast bulk of appeals dealt with under this legislation will be town planning appeals; that is, appeals from decisions made by local authorities. The submission made by the Western Australian Municipal Association in strong terms was that time frames established under the legislation are inappropriate for a local government authority. These authorities are governed by volunteers and do not have an executive governance. The decision-making process in local government is by way of formal council meetings held on a monthly basis. The decisions appealed will be made by a council, not an executive body. As WAMA pointed out in close dialogue with the minister, most local governments meet on a monthly basis; therefore, the time period offered of 14 days is inadequate unless the local government has previously been given delegated authority. Such matters should go back to the council to make the determination. It does not seem onerous, given the appellant time frames of 60 to 90 days to lodge the appeal, to move the time frame for the response by the respondent in the appeal to 28 days to take into account the fundamental structure of local government.

Mr KIERATH: I want to correct the record about the 90-days issue. The 90 days is not an appeal time; it is the time in which the Western Australian Planning Commission has to deal with subdivisions. There are only two times - 30 days and 60 days, and the 60 days is for deemed refusals. This matter is about mediation and whether the issue can be mediated or whether it has already been addressed in some form or another. Many councils meet fortnightly, but they can delegate their authority to the professional officers. The decision about whether a matter can be resolved at mediation should be made within 14 days. The issue will still be discussed, but it is a simple question of whether the issue is capable of mediation, and if it is, the decision must be made within 14 days. The dilemma is that if we keep putting in long monthly time frames, we will end up with an appeals system that takes a long time to deliver. In fairness to the people concerned, we in this place should try to give them a fast and efficient appeal time without sacrificing anything along the way. Two weeks in which to decide whether an issue is capable of mediation is more than reasonable - I think it should be even shorter. On that basis, it is in this provision.

Ms MacTIERNAN: If this were truly voluntary mediation, and if there were not an enormous amount of other difficulties with the mediation, one would be tempted to say that the minister is right and that local government could delegate that sort

of decision making. However, part of the problem is that there are a lot more consequences on the mediation under the schema of this legislation than there are on any other mediation process in the court system that we know today. Indeed, the involvement in mediation may prejudice the ultimate outcome of a determination because of the profound difficulties and complexities that are found in the mediation process which has been adopted by the Government in this legislation. It is important to understand that merely making a decision about whether to go into mediation is not determinative. The parties may say that they do not want to mediate, but they may be compelled to mediate by the processes of this legislation. Their performance in mediation has the potential to prejudice the determination of the appeal because of the structures. That makes it a different class of mediation from any of those we know about in existing court processes. With that in mind, local government has raised the concern. A local government will need to consider the scope and nature of the appeal made against it and will need to make decisions about whether it wishes to participate in the mediation process and, if so, to what extent it will allow its representatives to act on its behalf in a mediation process.

Members can understand the problems the whole concept of mediation poses for a local government authority. The decision-making authority makes a decision, which is then appealed. The minister then delegates someone to decide whether the parties will go into mediation. However, more must be done, because if the parties are to go into mediation, all 14 councillors cannot sit in the mediation room and make determinations on the spot. The whole process of mediation is that discussions take place, propositions are put up and then discussions take place about whether it is a fruitful line of inquiry and whether a deal can be settled on that basis. For a local authority to set out the terms and how far it would be prepared to go in a mediation process cannot be left to a simple blanket delegation. It must go back to the local authority for that local authority to at least consider the parameters it will give its officer if it goes into mediation. It must take that into account when deciding whether it is appropriate to support mediation. This format of the legislation has not taken into account the peculiarities of local government. Without an executive government, the structure of local authorities requires decisions to be made by the whole council, and it does not lend itself well to those structures. That has not been grasped by the minister in the time frames and processes which he is setting up. It is not simply a question of saying whether the parties will go into mediation; he must outline, by virtue of a council decision, the sorts of powers he will delegate and how far they will extend. At the end of the day, one of the unelected officers should not be able to overturn the decision of a council in a mediation process. That would make a complete mockery of the whole structure of local government.

Mr KIERATH: The clause states that the original decision maker may, within the 14 days, make written submissions to the director about whether the appeal should be mediated. Clause 6(2)(c) makes it possible for parties to not make written submissions and to go into mediation. The council officers could then say that they are not prepared to mediate. If they said that, the issue would need to be handled by investigation.

Ms MacTiernan: No, that is not true.

Mr KIERATH: It is true.

Ms MacTiernan: If a council officer says that he is not going to -

Mr KIERATH: Let us say that written submissions were not made within the 14 days, which is the case to which the member is referring.

Ms MacTiernan: They may want to make written submissions, but may not have the opportunity.

Mr KIERATH: If they have not had the opportunity of making written submissions, I presume that they do not want mediation to occur.

Ms MacTiernan: No. They have not had an opportunity to determine by way of council resolution whether that is appropriate, and if it is, the powers.

Mr KIERATH: Usually if they make written submissions, they would not want to mediate, because if they do not make written submissions, they would find themselves in mediation. Let us say that the parties could not decide within the 14 days whether to mediate, and then found themselves in mediation when they would rather not mediate. I think that is the situation to which the member is referring. Council officers can say that they are not prepared to mediate or budge one iota from the council's decision. In that situation, clause 6(2)(c) allows that if there is no reasonable prospect of any of the issues of the appeal being settled by mediation, mediation cannot occur and it must then be investigated. Often an appeal comes to me from the original decision maker, whether it be a local authority or the Planning Commission, because I get a few appeals of Planning Commission decisions. It may be that the original decision maker has not made a decision and the person has appealed because he is frustrated. The 60 days have gone by and no decision has been made. The person then puts in an appeal to get it expedited.

It is unreasonable to propose the addition of another month to the legislation to enable the appellants to decide whether they will be part of the mediation process. The Government has said they can either refuse to mediate or they can ask for mediation to be deferred while they obtain a council resolution. If this is an issue on which the council wants to make a resolution, many are happy to delegate it to their officers. In this case, if they do not want to delegate, they can refer the issue back to the council. They can either refuse to mediate or they can ask to have the mediation deferred until they receive a response from the council. They have not lost any of their natural rights in this process; they are all preserved, but in the meantime the system is progressing at a reasonable pace. Despite what the Opposition says, we are currently doing quite a number of mediations. It is a very good system because the appellant and the parties sit down and often come to an arrangement they should perhaps have come to in the first place. All the parties walk away from the table happy, which

is a good result. Nobody ends up disliking intensely the other party. This is a system that resolves, rather than creates, conflict. I point out that clause 6(2)(c) preserves the right to refuse mediation. The parties can also ask to have mediation deferred.

Ms MacTIERNAN: This clause is a minor player. I am not totally unsympathetic to the comments that the minister makes about timeliness and getting the process moving, but I make the point that the minister's description of what is going on in clause 6 is very wrong; however, I will defer that issue to debate on that clause.

Amendment put and negatived.

Mr KOBELKE: I seek some comment from the minister on clause 5(2) which requires -

> An appellant must give a copy of the notice of appeal to the prescribed people in the prescribed manner.

My understanding of the current system of appeals to the minister is that the appeal form goes to the minister and then the minister, or the officer assisting the minister, notifies the various people of the appeal. To that extent, it appears we are now placing an additional requirement on the appellant to provide notice of the appeal to various parties. Although I do not have any objection to a requirement being placed on the appellant to notify the decision-making body, I am concerned that we may find, as a result of the requirements of the regulations, this is an onerous provision for the appellant. For example, constituents who are not well resourced approach me, as they approach many other members. Currently, those constituents can fill in a form and submit it. That is all that is required when one wishes to make an appeal to the minister. If we now require that person not only to notify the authority that made the decision - which I do not have a problem with - but also to inform other government agencies, it could be an imposition on a particular class of appellant.

I am not saying that is the minister's intention, but it would be possible under clause 5(2) to establish, by way of regulation, requirements for appellants to notify a range of different government agencies or bodies. I am concerned that this opens up the potential to complicate matters for appellants. I do not see any problem with requiring the appellant to notify some organisations, but what we are doing here is giving unlimited power in terms of the number of organisations to which the appellant may have to submit copies of his appeal.

Mr KIERATH: Currently under the regulation, a person is required to lodge his appeal with the Town Planning Appeal Committee and he must serve a copy of it on the original decision maker. If it is a local council, a copy of the appeal must go to the local council. If it is the Western Australian Planning Commission, a copy of the appeal must go to that body. Those are the two major agencies.

Mr Kobelke: What about appeals to the minister?

Mr KIERATH: The Town Planning Appeal Committee handles appeals to the minister. Although the minister is the person who signs the letter and ultimately under the legislation makes the decision, usually the decision is made on very strong advice. I usually have three or four people from the Town Planning Appeal Committee sitting with me providing advice.

Mr Kobelke: What about the other areas that are covered?

Mr KIERATH: The only intention under current regulations is what we intend to duplicate. At this stage our only intention is to require people to do exactly what is done at the moment: They lodge their appeals and they serve notices on their original decision makers. Currently, if other parties are required to be consulted, we notify them. If the Water Corporation, Western Power or the Department of Transport are involved, they are notified and that is done internally. At this stage the Government does not anticipate requiring the applicant to do that. We have the existing power. In the worst case scenario we could prescribe that an applicant must lodge copies of his appeal with five other agencies, but we do not do that.

The whole object is that this system should be simple and efficient so that the lay person who is appealing is not bound up in red tape. I can certainly give the undertaking that in the foreseeable future we do not intend to extend it beyond that. The member is right: It is a head of power which could be used in the future; however, it is the same as the head of power which we have currently and which could have been used, but which has not been used.

Clause, as amended, put and passed.

Clause 6: Appeal to be set down for mediation or investigation -

Ms MacTIERNAN: Effectively the minister has told us that if a party does not want to go to mediation, he does not have to do so. That is probably how it should be, but it is not how it is in this legislation. Let us look at how the scheme works. The appeal is submitted and the decision maker has 14 days within which to make a submission about whether it should be set down for mediation. I note there does not seem to be any right of submission for the other side, although perhaps that is in the prescribed form. The director receives the appeal and the submission - he may not even get the submission - and after 14 days he must make a decision. The Bill says quite clearly that the matter must be set down for mediation unless, having regard to the submissions that have been made either by the appellant in the appeal or by the respondent in the special submissions, the director considers it would be inappropriate or impractical, or there would be no real likelihood of success. Under those circumstances, the director is not required to set the matter down for mediation and it will go straight through to investigation. That is quite a different matter from a party having the right to opt out of mediation. I do not want to make a federal case out of this, because I do not think that it is the most significant aspect of this legislation. However, it is important that the minister sets the record right. There is a prima facie obligation on the director to set a matter down for mediation, but he may determine otherwise, having regard to certain submissions, but he does not have to take into account those submissions.

He can decide, on balance, that he will not accept the content of the submissions that have been made by a side that might not want the matter put down for mediation. I will not go overboard here because, in the vast majority of cases, if someone were implacably opposed to mediation, it would be probably unlikely that the director would set down an appeal for mediation. Under normal circumstances, one would not even really bother raising this, other than to correct the minister. We will get to this when we consider clauses 9 and 11. An unacceptable outcome or a poor outcome from a mediation in this tribunal - if one can call it that - alone has the possibility of actually prejudicing the outcome of the determination. This becomes a difficult matter to describe because what might be considered to be a fairly minor issue becomes a significant issue because of the consequences that flow from it further into the legislation. We have a situation here in which a person, the respondent, may say, no, he does not want to engage in mediation because he does not believe that he can properly delegate an officer to make compromises in the matter because it may be a very important matter in the town concerned. Nevertheless, the director may set it down for mediation and if it is not successful under mediation, anything that goes on in the mediation can effectively, by way of the contents of a written report, go to the director, and that can prejudice the outcome. The whole way in which the mediation process has been set up here is outrageous and unlike any other mediation process. The significance of this provision is that a person can be directed to take mediation.

Mr KIERATH: The member said that there was nothing for the other side. I refer back to clause 5(1)(b)(ii), which refers to the appellant, and subclause (3), which refers to the decision maker.

There is no doubt in the explanatory memorandum that we have given -

Ms MacTiernan: Explanatory memorandum?

Mr KIERATH: It was tabled. It has all the clause notes.

Ms MacTiernan: When?

Mr KIERATH: When the Bill was second read. I had to table them. They were on the Table of the House.

The DEPUTY SPEAKER: This was before the trial and they were never received.

Mr KIERATH: I will get a copy. There is no doubt that there is a presumption in this area for mediation. I do not make any apology for that. The member is partly right when she refers to clause 9(2)(b) which states -

> a party indicates that it is no longer willing to participate in the mediation;

Therefore, if a party enters mediation and decides that it is going badly for him, he can withdraw from the mediation. The whole point of mediation is that the parties should agree.

Ms Mac Tiernan interjected.

Mr KIERATH: The member should allow me to finish and then she can have a go at me. For the sake of Hansard, I want to finish and then I will address the member's comments. Under clause 9(2)(b), if a party is no longer willing to participate, or, if the assessor decides that there is no reasonable prospect of resolution, the mediation will be terminated as there is no point in proceeding with it. It is not arbitration - there is no point in proceeding if the parties are unwilling to agree. That is, therefore, a very important part. One cannot force mediation.

Ms MacTiernan: One could try.

Mr KIERATH: The member may have a different view. However, the bottom line is that no-one can be forced into mediation. There is a presumption that the parties are prepared to mediate. However, if one of the parties flatly refuses, the issue will be assessed.

The other issue raised about mediation is addressed by an amendment to clause 11. It allows the successful parts through but not the unsuccessful parts. I think that would be in everyone's best interests. If agreement is reached on most of it, then that should be carried through and then an assessment should be made on the parts that were disagreed.

Ms MacTiernan: That is in your opinion?

Mr KIERATH: Yes, it is. It appears on page 16 of today's Notice Paper under clause 11. I accept the member's point and that came out of the discussions we had as being something we could improve and clarify. That was our only intention and we have the amendment to ensure that happens.

Ms MacTIERNAN: What the minister is saying is correct in that there is no point in having mediation if either party objects to it. Why do we not just cut to the chase and make that a provision of this clause, rather than having all these roundabout provisions whereby people drop in and drop out and are compelled to do it even though they say that they do not want to? I think we should bite the bullet. I propose an amendment to clause 6 that would become a new part of subclause (3) which would state -

> If any party to the appeal objects to the appeal going to mediation the director will not set it down for mediation.

In my view that would make it a much more simple process and would get around many of those situations that we are talking about. The minister has said on many occasions today in the debate that there is no point in proceeding with mediation under certain conditions.

The DEPUTY SPEAKER: Is that amendment to be moved?

Mr KIERATH: Not yet. The member might move it later. It depends on what I have to say. I make no apologies for the implications and intent of this to try to get the parties to mediate. I think that the member is talking about a difference in style. I want the presumption to be in favour of mediation. I want that to be there. At this stage, I am not prepared to accept that proposed amendment, but I give the undertaking that if I am given something in writing by the member, I will have it checked to make sure it does not gut the intent of the provision. I want the presumption to be in favour of the parties mediating.

That is the starting point. If that can be accommodated without watering down that provision, I will seriously entertain it and, if necessary, between this place and the other place I will have those words inserted. There needs to be an emphasis on mediation, to encourage people to mediate. It has been designed in that way. If a party wants to be hard-nosed and will not mediate, that party can refuse to budge and the matter will not be mediated. However, the Government wants that filter to begin with to encourage the parties to work it out together without an assessment being made. That certainly is the emphasis of this legislation. The member is free to do what she likes, but I am putting my comments on the record and if she provides me with an amendment in writing privately, provided it does not water down the emphasis on mediation, I will see whether the words can be accommodated.

Ms MacTIERNAN: I support a presumption in favour of mediation, and I would not entertain an amendment to this clause if we could get a substantial change in the later provisions.

Mr Shave: You should be prepared to mediate on my difficult situation.

Ms MacTIERNAN: All this discussion on mediation leads me to suggest that the Minister for Lands, who has been taking a very active interest in this debate, go to Relationships Australia with the Leader of the House, which would certainly provide a challenge for them. The system proposed by the Minister for Planning, in which people are compelled to go to mediation, is one he should discuss with the Premier and perhaps the Premier could take this unholy mess in hand and compel the Leader of the House and the Minister for Lands to have a spell of conciliation and mediation. He could make it a fundraiser and sell tickets! Members on this side would certainly buy them.

Mr Kierath: Like the Labor Party preselection brawls?

Ms MacTIERNAN: We had our mediations over those, and the member for Girrawheen has done very well. He has been able to appoint a successor.

The DEPUTY SPEAKER: Order! Let us get back to the Bill.

Ms MacTIERNAN: I will not proceed with the proposed amendment because, by its very nature, it would change that presumption. I am happy to support the minister in his attempts to get people into mediation, provided we can properly tighten up the provisions that relate to the consequences of mediation so that it does not become a negative. I therefore will not move that proposed amendment, while we view what we are able to achieve in the subsequent clauses.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Powers of Assessor mediating an appeal -

Ms MacTIERNAN: The Opposition seeks two separate amendments to this clause, which I will deal with separately. They seek to make a distinction between what a mediator may tell a person to do and what a mediator may request a person to do. I go back to the previous debate, bearing in mind that we are talking not about a voluntary mediation but a mediation that has consequences if it falls over. The Opposition agrees that the assessor, or mediator, should have the power to require parties to attend a meeting with either the assessor or the other party. However, bearing in mind this is a mediation and not a tribunal, we do not believe it is appropriate for the mediator to be given the power to compel answers to questions or the production of documents. It is a very informal procedure and, although the Opposition is in favour of the minister's aim to get everyone possible into mediation - the Opposition supports a compulsory conference situation because the parties must at least sit around a table to kickstart the process - it is a nonsense to go further and put in the hands of the mediator the powers of a court or a tribunal. That is contrary to the principles of mediation. Because there can be consequences if a mediation falls over, the Opposition does not support this provision. It undermines the whole principle of mediation. It goes too far and makes mediation some sort of kangaroo court. Those powers of compulsion in relation to the answering of questions and the production of documents are not mediation. I do not know whether the minister has ever been involved in mediation in a court situation, but it certainly does not work in that way. No-one is compelled to answer questions or to produce documents. Nevertheless, we obviously want the process to move forward. The Opposition agrees that people can be compelled to have a meeting but after that, the parties must be requested to answer questions or produce documents. To compel them would be contrary to the spirit of mediation. If the first of my foreshadowed amendments is successful, the second one will not be necessary. I move -

Page 6, after line 22 - To insert the following -

(2) An Assessor mediating an appeal may request a party to -

Mr KIERATH: This goes to the heart of the matter. The assessor who is mediating an appeal must have the power to

require the parties to attend, and to answer questions and produce documents. He does not want documents to be held back and produced at a later stage, because he is trying to resolve the matter. However, the balance of the mediation process will be voluntary. That is underpinned by the fact that although people will be compelled to answer questions and produce documents, if they do not want to proceed with the mediation, they can refuse to continue, and the process will be terminated. Therefore, there will be an out. However, it is vitally important that the parties be compelled to participate and produce evidence. We do not want people to play games and hold back to a later stage. We want everything to be out in the open as early as possible so that it can be dealt with. Therefore, I cannot accept the amendment because it will gut this provision and defer the whole process to a later stage.

Ms MacTIERNAN: Can the minister advise whether these sorts of powers exist at the mediation stage in the Local Courts, the District Courts, the Supreme Court and the Town Planning Appeal Tribunal, because they seem to me to be completely antithetical to the notion of mediation? It is also important to understand that only one of the assessors will be required to have legal training. An assessor may be one of the retired gents about whom the minister talked during the second reading debate, who have given a lifetime of service to the community and say that they love being on government boards and committees. Those people might be very worthy members, but they might not have any legal training. The minister is proposing to give those assessors the power to compel people to answer questions which might be entirely misconceived from a legal point of view, and to produce documents over which there might be proper claims of privilege and which might contain evidence that was otherwise inadmissible. The minister is proposing to give these retired blokes, who might not have much experience in this area, a power that currently is given only to the courts. That is very dangerous, bearing in mind that any of this material may then form the substance of a report that will subsequently go to the director and the appellate tribunal. It is also quite stupid, because it will create an adversarial atmosphere in that mediation process when the whole purpose of mediation is to try to get people on side.

We agree with the minister that it is important to encourage people to have a presumption in favour of mediation, but after getting people around the table the assessor should not then have the power to come out with all guns blazing and compel them to answer questions and produce documents. That is pixie land, not mediation, and it will destroy the whole process that the minister, quite properly, wants to set up. We are on the minister's side in his desire to get things to mediation, but this is a stupid provision that will undermine the mediation process and make it even more mickey mouse than it is currently, because effectively the assessors will be operating as if they were the tribunal. I ask the minister to reconsider this provision. It is not a big step. We agree that in order to kick-start the process, the assessors should be given the power to compel people to sit around the table and mediate, but they should also have some skills to facilitate that mediation and not make it into an adversarial system, which is what the minister is proposing to do.

Mr KIERATH: I do not know about the situation in the courts, but under the Town Planning and Development Act the tribunal has the power to compel people to produce documents and answer questions. I do not know whether that power has been used in mediation conferences.

Ms MacTiernan: It would not be, because it is contrary to the whole notion of mediation.

Mr KIERATH: I do not know. I do not have all the details of mediation. However, I do know of people who went to the tribunal for mediation and were required to produce documents. It is hearsay; that is what they told me. We are not here to discuss what the tribunal does or does not do. We are here to deal with provisions of the Bill that try to accomplish mediation. There is an amendment on the Notice Paper that I believe will ameliorate some of the member's concerns, because if in the end mediation is unsuccessful, only the successful parts will be carried further, and hopefully that amendment will be passed.

The member referred to the issue of an adversarial process rather than a mediation process. Unfortunately, some people try not to participate in mediation. Some councils have moved motions that they will refuse to participate in mediation, not for any logical reason but as a policy decision. Therefore, there must be some obligation on the parties to go through the process. The emphasis must be on compelling people to answer questions and produce documents so that all of the issues are on the table and they can try to resolve the matter. It is difficult to resolve a matter if people keep issues off the table and are not prepared to deal with them. The ultimate out is that people can abandon the mediation process if they no longer want to continue with that process. That should satisfy the member's concerns, and it also satisfies our concern that there must be an obligation on the decision-making authorities to participate in the mediation process.

Ms MacTIERNAN: It is a great pity that the minister abandoned his legal studies so early in his career.

Mr Kierath: Is it coming back to me in what I may or may not have done three or four years ago?

Ms MacTIERNAN: No, this scheme is silly. The principle of mediation has been undermined. The minister has come into this place suggesting a whole scheme of legislative reform with a proper focus on mediation without any knowledge of how mediation works practically in any other court in Western Australia. He has no idea of how it works in the Town Planning Appeal Tribunal and the Local, District and Supreme Courts. At best, when asked genuine questions on this matter, he is able to pluck out one anecdotal case of someone he knew who he thought had been - he thinks properly - required to produce documentation rather than being requested to do so.

Mr Kierath: No, I said it was that person's word. I did not check it out.

Ms MacTIERNAN: Honestly! The minister should have done his homework on this matter.

Mr Kierath: I have. That is not the reason for doing this. I said that what we want to do is ensure an obligation is placed on the parties to mediate. It has nothing to do with another tribunal.

Ms MacTIERNAN: It has. The minister needs to talk to these courts and tribunals that have mediation processes in place and find out what makes those mediation processes work. What the minister is trying to do with this scheme, from my experience, is far outside that which any other tribunal would require of a mediation process. The reason for that is not an accident of history; it is because the minister is turning this planning appeals process into an adversarial mini-court. That is antithetical to the whole notion of mediation.

The minister must do more homework on this Bill. The discussion on this clause has provided an ample illustration of how poorly prepared the minister is in arguing and devising this scheme. We will be opposing the scheme. As I said, it was evident from our previous position that we were prepared to support the minister by withdrawing amendments; however, we are not prepared to support this clause because it is fundamentally stupid and will destroy what the minister is trying to achieve. We have no problem with the minister's stated objective. However, he is going about it absolutely the wrong way and will ruin the whole legislative scheme that he sees as such a positive matter.

Mr KIERATH: I take issue with the comments by the member for Armadale. She may have those opinions but they do not stack up factually. I have tried to put the answers on the record. However, as we are dealing with clause 9, I reiterate that these are very important provisions. There is an obligation on people to mediate and I want that obligation to remain. There is an out if people want to abandon mediation.

I recap that assessors are to have powers that may require parties to attend an initial mediation hearing and to answer questions put by the assessor. The clause says that the assessor mediating the appeal may require - not compel - parties to mediate. There may be a crucial issue about the words "required to". However, eventually, that party can abandon mediation if it has answered questions. There is a compulsion to put the issues on the table for resolution but there is no compulsion to conclude or finalise mediation. That is a very important aspect if we are to attempt to deal with the issues.

I have found throughout the whole of my political life and my life in dealing with planning issues as an appeals minister that the most important thing is to get issues out on the table. Until that is done, there is no hope of resolving them. Once the issues are on the table, an attempt can be made to resolve them. It is vitally important for that to occur. It is important for the assessor to have the power to require people to answer questions and produce documents. Having done that, the balance of the process is voluntary. The mediation process can be terminated by one or both of the parties if the assessor's requirements are not complied with. If one of the parties is no longer willing to participate, the assessor or one of the parties can terminate the process if there is no reasonable prospect of the appeal being settled by mediation. There are many opportunities to abandon the process; however, the thrust of it is to try to get all the issues out on the table, and that is extremely important.

Amendment put and a division taken with the following result -

Ayes (18)

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

Noes (25)

Mr Ainsworth	Mr Johnson	Mr Minson	Mr Prince
Mr Baker	Mr Kierath	Mr Nicholls	Mr Shave
Mr Barnett	Mr MacLean	Mr Omodei	Mr Trenorden
Mr Barron-Sullivan	Mr Marshall	Mr Osborne	Mrs van de Klashorst
Mr Board	Mr Masters	Mrs Parker	Mr Wiese
Dr Constable	Mr McNee	Mr Pendal	Mr Tubby *(Teller)*
Mrs Hodson-Thomas			

Pairs

Mr Riebeling	Mrs Holmes
Mr Bridge	Mr Court

Amendment thus negatived.

Ms MacTIERNAN: I move -

Page 7, lines 3 and 4 - To delete the lines.

I am moving this amendment because the Opposition does not believe it is appropriate to compel people to answer questions and produce documents in mediation. Their failure to do that should not be able to be used as a trigger for abandoning the mediation resulting in an adverse outcome. The amendment is necessary because, due to the minister's intransigence, we have retained paragraphs (b) and (c).

In mediation, for example, an untrained assessor might require a document to be produced which, in the view of the appellant or respondent, is a privileged document and should not be produced; it is not that he does not want to participate

in the mediation. An assessor may get snaky and terminate the mediation. That would be inappropriate; therefore, the Opposition is asking the minister to consider the removal of paragraph (a), which would enable a mediation process to be terminated simply because of a refusal to meet with a request that may be ill conceived.

If the assessor believes that the refusal has been motivated by a desire not to continue to participate in the mediation, he has the power under subclause 2(c) to terminate the mediation process without an agreement being reached if he considers there is no reasonable prospect of any issues being settled by mediation. If a situation arises where someone is refusing to provide documents, clearly because he is not a willing party to the mediation, then the mediator has the power under subclause (2)(b) to call it a day.

I ask the minister to earnestly consider what situations he might be trying to cover that are not covered by subclause (2)(c).

Mr KIERATH: I was distracted because while the member for Armadale was mouthing her argument in support of her amendment, I glanced at the end of the amendments to find that she wants the Bill to provide that the assessor must give all parties the opportunity to respond to matters raised in such discussions and documents. I find that staggering.

Ms MacTiernan: I will explain that later.

Mr KIERATH: I think the view of the member for Armadale is being distorted because she is importing her adversarial training into a process that is dependent on mediation. I do not think it would be possible to get from a person a document covered by legal privilege. Other precedents in law would prevent that. If the issue is about documents that have some form of legal privilege, I undertake to check with my legal advisers and if necessary I am prepared to encourage other people to make amendments in the other place to accommodate that. It is not the intention here to gain access to any documents that have any privilege.

Ms MacTiernan: I know that; I am not saying that that is the intention. I am saying that an untrained assessor may require them and when the person does not deliver, he can say he will abandon the mediation process because the document has not been provided.

Mr KIERATH: The person doing the mediation must have the ability to make some form of judgment irrespective of whether mediation is likely to be successful. The member says that in a worst-case scenario an assessor may be untrained and unreasonable.

Ms MacTiernan: Unaware.

M KIERATH: If an assessor were untrained and unreasonable, it would be undesirable for the mediation to occur, and the case should go to arbitration. Mediation is a filter. Not all cases will suit mediation.

Ms MacTiernan: That is right.

Mr KIERATH: However, obligations will be on the parties to try to get them to mediate. That is the difficult balance. In trying to place on people some obligation there must be powers of compulsion. The strategy of the people who drafted the legislation is to provide powers to get people to do certain things. Ordinarily, one may not have those powers, but the Bill provides the opportunity for parties to abandon the process at any stage. Even if he is an unreasonable person, the assessor must have the ability to abandon the mediation. If mediation is abandoned, at worst, that issue will not be resolved at mediation; it will be resolved at assessment. A majority of the appeals are handled by assessment now. We are trying to get more people to agree.

Where the line is drawn is arguable. We are trying to draw the line here and get as many people as possible -

Ms MacTiernan: Your principle is, "We will make you agree". It is silly.

Mr KIERATH: It is not. We have gone past that part of the clause. The amendment being moved now does not say that; it relates to -

Ms MacTiernan: It relates to terminating a mediation that might be a fruitful negotiation.

Mr KIERATH: The amendment will take away the power of the assessor to terminate if the party fails to comply under subclause (1). The assessor needs that power.

Ms MacTiernan: Why?

Mr KIERATH: In the assessor's judgment a party may have failed to do something; for example, he may be holding something back.

Ms MacTiernan: What is achieved by determining -

Mr KIERATH: What is not achieved by it? The bottom line is if a document must be produced and agreement can be reached, it will not need to go to some form of assessment. If, on the other hand, agreement cannot be reached, the case will proceed to assessment. Nothing will be lost. However, having produced that information, agreement might be reached around the table saving the formal assessment process. That is the whole principle of mediation.

Ms MacTIERNAN: I am sorry, the minister has not grasped the argument. He admitted he was distracted during my comments so I will go through it again carefully. An assessor, perhaps with all the good faith in the world, is mediating

and requires certain information and compels the production of certain documentation. It may well be the very honest view of one of the parties to that mediation that the documents are privileged or that the evidence sought is inadmissible. Therefore, the person refuses to meet that requirement, as he or she is entitled to do. He or she may be more than happy to continue the mediation process, but the assessor may become angry because the question was not answered: "You have not answered the question so I will knock you off the mediation." The problem with this provision is that one could prematurely terminate an otherwise fruitful mediation. The minister is only contemplating that a person in mediation would refuse to answer a question or deliver a document because he or she was acting in bad faith. As outlined, other reasonable explanations can be provided for a person who does not want to produce a document. It is certainly the case that the assessor must have the power at the end of the day to say, "This is going nowhere and is a waste of time." That situation is adequately catered for in subclauses (2)(b) and (c). An assessor can terminate the mediation process when -

(b) a party indicates that it is no longer willing to participate in the mediation; or

(c) the Assessor considers there is no reasonable prospect of any of the issues of the appeal being settled by mediation.

Those are the only powers the assessor needs. It is true that assessors should be able to wind up something going nowhere. That causes no problem. However, paragraph (a) might prematurely terminate what would otherwise be a fruitful mediation simply because the assessor gets snaky because a person has not produced a document which that person believes is improperly required.

The Opposition supports the amendment because it supports the thrust of the minister's mediation proposal. The minister wants a resumption of mediation and to encourage the parties to stay within that process. Nevertheless, the problem with the clause is that it will have the opposite effect. If a person is not answering questions simply because he or she does not want the mediation to proceed, the assessor can immediately terminate the mediation using the powers in paragraph (c). Adding paragraph (a) not only adds nothing, but also could result in the early termination of an otherwise worthwhile mediation process.

Mr KIERATH: Nothing the member said in her second contribution is any different from her first contribution. I perfectly understood what she said earlier in outlining her opinion. I answered those questions. For the benefit of members who did not hear, I say it again: The member for Armadale is running the line that the assessor may request in mediation that certain documents be produced or answers be provided. If a party refuses to meet those requirements, the member is worried about an early termination of an otherwise fruitful mediation. There is no obligation to terminate - the assessor may terminate. One is heavily reliant on the assessor to decide in an impasse whether a matter can be resolved at mediation. If in his or her judgment the reluctance to produce something will prolong the mediation, we want an obligation on the assessor not to drag out the mediation as a delaying tactic. We want it to reach a fruitful end as soon as possible. If in the opinion of the assessor it is not likely to happen, he will have the power to abandon the mediation, but will not be compelled to do so. We rely on his or her judgment on whether mediation is likely to be successful. If the opinion is that it will not be successful, the assessor should have the power to bring it to an end. Therefore, a person cannot use the non-production of a document to inordinately delay a process to get parties to agree. If the member for Armadale wants to drag her legal delaying tactics into an area in which we want to get parties to agree, I will oppose it strongly.

Ms MacTIERNAN: We all agree that the assessor must have the opportunity to make a decision on whether a matter is going nowhere. Our argument is that that is already covered in paragraph (c). It refers to the reasonable prospect of matters in the appeal being settled by mediation. That is already included. If the assessor wants to drop the mediation, the power is already provided. The Opposition is not opposing that correct provision.

Mr Kierath: Why are you worried about paragraph (a)?

Ms MacTIERNAN: Under paragraph (a), one could have a mediation knocked off not because of no prospect of success, but simply because a party failed to produce a document. Only when the failure to produce a document is evidence of no reasonable prospect of success should the mediation be knocked off. The scenarios to which the minister refers are covered by paragraphs (b) and (c). Paragraph (a) would open up other opportunities. The entire structure suggests that it would be possible to knock off a mediation with the prospect of success.

Mr KIERATH: The member is right in the last part, but not the first bit, of her contribution. If a person refuses to answer a question or produce a document, and if that person has reasonable reasons for doing so, why terminate the mediation? It makes no sense. The power is given because if the person who has not abandoned the mediation is refusing to answer a question or produce a document, it may be a delaying tactic to prevent a resolution. Therefore, the assessor needs the ability to say that the person is delaying the process. The assessor may not be sure why the party is doing that. Once the matter is in the open, the assessor will know whether the party will mediate. That person may use the power to delay. If the person has not met the requirements, the assessor will have the ability to bring the mediation to an end and go straight to assessment. I find it strange that the member argues against that notion when she voted against a system of mediation to begin with.

Ms MacTiernan: I did not vote against it!

Mr KIERATH: The member voted against it at the second reading stage.

Ms MacTIERNAN: The idea that because the Opposition voted against this Bill at the second reading stage because it thought the Bill has fundamental flaws and is anti-mediation is a courageous leap forward, even by the standards of the

Minister for Planning. Prolonging this debate has no point. However, if this matter is approached with a logical mind, the power is already provided to terminate if there is no evidence that either party to the mediation is serious about mediation, and there is no likelihood the matter will be mediated. We are not contesting that power. Unfortunately, the Bill's construction states that situations may arise in which mediation is on foot with the likelihood of success, but the assessor can terminate because someone has not delivered a document.

We will get mediators who will have little or no legal background and who might apply their powers in a slightly cavalier fashion. This clause will allow them, and perhaps even encourage them, to bring off a mediation earlier than need be. All the circumstances outlined by the minister under which people might want to terminate a mediation are provided for in paragraphs (b) and (c). There is no logical reason for having paragraph (a). The real problem is that it is not only superfluous but also it allows and encourages an assessor to terminate a mediation when a person has not produced a document, maybe for the best possible reasons, even though that person might be quite happy, indeed keen, for the matter to proceed to mediation. It is another unfortunate mistake. The minister's objectives at one level are okay, and we support them, but he is producing legislation that is counter to the best interests of the mediation process.

Mr KIERATH: I can only presume that the member has not read clause 8. We did not have a debate on it, which is perhaps unfortunate. The member is being totally pedantic over this issue. I have explained that there could be a situation in which a person is refusing to do something.

Ms MacTiernan: Our opinion is shared by the Western Australian Municipal Association.

Mr KIERATH: Then it is a minor one, which does not stack up. Obviously, the assessor has the ability, if someone is refusing to provide certain information, to abandon mediation and go to assessment. The assessor needs that power. The assessor has an obligation not to be unreasonable, as the member termed it. The role of the assessor under clause 8 when mediating an appeal is to encourage the settlement of the appeal by arranging for the parties to hold informal discussions, helping in the conduct of those discussions and, if possible, assisting the parties to reach an agreement under proposed section 10. Therefore, there is an obligation on the assessor to resolve it. I cannot believe that someone of the member's standing would be arguing the tenuous argument that she is today. I have put it on the record. If she does not like it she must vote against it.

Amendment put and a division taken with the following result -

Ayes (17)

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

Noes (28)

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

Pairs

Mr Riebeling	Mrs Holmes
Mr Bridge	Mr Cowan

Amendment thus negatived.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Report by Assessor mediating an appeal -

Mr KIERATH: I move -

Page 7, line 24 - To delete "on the outcome of the mediation of an appeal." and substitute the following -

stating whether, or to what extent, the mediation of the appeal was successful.

As a result of the undertaking I gave the member for Armadale earlier, this amendment has been moved so that only those successful parts of mediation, if partial success has occurred, would be carried forward and those that were not would not be. From the tenor of discussions I have had, I hope I will get support from the other side.

Mr KOBELKE: We are taking a moment to consider the amendment on the basis that during the second reading debate, we did not have notice of this matter and that the minister was to amend clause 11. The minister has said that he alluded to it but we did not pick the reference up at the time because it was in the form of a general debate. We have had very little time to look at the amendments that were put on today's Notice Paper and not yesterday's. Therefore, we wish to take a moment to consider whether the minister's amendment adequately meets our concerns.

The clause relates to a report prepared by the assessor on the mediation stage of an appeal. The minister has outlined changes that substitute the last part of subclause (1) from "on the outcome of the mediation of an appeal" to "stating whether, or to what extent, the mediation of the appeal was successful". I am unsure whether that meets our needs.

Mr KIERATH: This amendment resulted from discussions with the Western Australian Municipal Association. The association wanted some reassurance that where mediation had occurred, only those successful bids would proceed. If the association still wanted to hold back some bids which could not be successful, it did not want to be jeopardised or suffer some detriment as a result. This amendment is part of the Government's undertaking. It received legal advice on how to phrase the comfort WAMA was after. The member for Armadale earlier said that if the mediation stage produced something that could not be agreed upon, it should not jeopardise the parties at a later stage. The Government's legal advice is that these words cover WAMA's concerns and preserve the principles of mediation; that is, what has been agreed to by the parties is agreed and what is disagreed to is then subject to another assessment. The parties will not jeopardise their appeal through participation in the mediation process. We think that is important. The Government is trying to encourage and support as much mediation as possible. If a case arises in which parts have been mediated and other parts have not, the parts that have not been mediated will be subject to further assessment but the successfully mediated parts will proceed. At the same time, the rights of the parties are kept intact; that is, anything they have submitted which is not agreed to will not jeopardise their position at a later stage.

The ACTING SPEAKER (Ms Anwyl): The member for Armadale has listed a further amendment to clause 11. In view of this, and to preserve the rights of the member for Armadale, I propose a test vote on this amendment. The vote will be on the deletion of the words "on the outcome of the mediation of an". The word "appeal" is not included in the words to be deleted. I will put it to a test vote, and subject to the outcome of that vote, the minister will seek to further amend it in accordance with his amendment on the Notice Paper. That may affect the member for Armadale's decision to proceed with her amendment. The question is that the words "on the outcome of the mediation of an" in line 24 on page 7, clause 11, be deleted.

Ms MacTIERNAN: I do not think the amendment solves the problem. The power given to the assessor is such that he or she is required to prepare a written report stating whether, or to what extent, the mediation stage of the appeal was successful. Nothing is contained in the amendment that says the report is to be submitted only if the mediation is successful. I cannot believe the minister thinks it addresses the problem in any way, shape or form. If mediation has been unsuccessful, a report could be submitted stating that mediation has not been successful for particular reasons, such as they do not like what the appellant does. The report, which goes to the director, can still contain adverse comment about the conduct or the failure of parties to comply with directions set out in clause 9(1), (2) and (3). The issues dealt with in mediation can still form part of the report. The amendment does not resolve, in any shape or form, the sort of problem that is contemplated. The words in the amendment still encompass the requirement to provide a report if the mediation is not successful.

Mr Kierath: That has always been the case.

Ms MacTIERNAN: To what extent does this amendment deal with the problem?

Mr Kierath: I do not think the member knows what the problem is.

Ms MacTIERNAN: The minister does not understand mediation. The minister first proposed compulsory mediation. The Opposition was prepared to go along with that. Then he suggested mediation in which adversarial processes are set up. The parties would enter into the mediation process with all guns blazing and would be compelled to answer questions and produce certain documents. The mediation process suddenly became an adversarial system. Now, there is a dob-in provision. The whole notion of mediation is that whatever occurs is supposed to be without prejudice. Later on in the Bill, there is some nonsense that says the mediation process is without prejudice, but the reality is that the way the process is structured means a report will be produced. A report card will be prepared on the mediation in which the assessor can say that mediation was not successful because party A did not comply with the requirements in section 9 (1) and refused to hand over certain documents. I do not see how the wording of the amendment will stop that from happening. My concern is that the notion of mediation is that there is no compulsion, the proceedings are without prejudice and whatever happens in the mediation has absolutely nothing to do with determining the appeal. Instead, a report will be written on the appeal, which will then go to the director and become part of the range of documents that can be taken into account when assessing an appeal. It is absolutely unheard of for there to be "without prejudice" mediation where a report is written that includes a record of whether the parties complied with various sections of the Act and which is seen by the director before the appeal is determined. It is an absolutely extraordinary proposition. This amendment does not deal with the problem.

Mr KIERATH: I listened to that line of argument and I am perplexed at the logic. Any objective person who reads this debate will wonder what the member for Armadale was up to. I do not know whether she is trying to drag out the debate or fill pages or whatever.

Ms MacTiernan: Does the minister think we are the only people concerned about this?

Mr KIERATH: It was the logic put to the Government by the parties which had difficulties with this clause. We did not feel that this amendment was necessary. We felt it was already accommodated in the Bill.

Ms MacTiernan: What was already accommodated?

Mr KIERATH: My understanding of clause 11 is that the words "a written report on the outcome of the mediation of an appeal" might allow the bits of the mediation process that were successful to be included in the report and would not exclude the parts that were not successful. WAMA is the key body that wanted some comfort in the form of words.

Ms MacTiernan: WAMA not only wants words, it wants some legislative protection.

Mr KIERATH: Therefore, the Government proposed to delete "on the outcome of the mediation of an appeal" and substitute the words "whether, or to what extent, the mediation of the appeal was successful". We believe that accommodates WAMA's concerns. I cannot understand the need for such a lengthy debate on this issue. The director has overall responsibility, and if an assessor sits in on the mediation stage the director needs to know what occurred. The best way to do that is in a written report. The report must include the details of any failure of a party to comply with a requirement under clause 9(1) and a copy of any agreement reached. I believe that clause covers that. The member for Armadale may have an unusual interpretation of that.

Ms MacTiernan: What is unusual is the minister's amendment, which is completely out of keeping with mediation in any tribunal.

Mr KIERATH: It is not unusual at all. Why would a director who employs a number of assessors for mediation not receive a report on what occurs in that mediation? The line that the member for Armadale is running is ludicrous. Obviously she has some other intention, because her argument does not stack up logically.

Mr KOBELKE: The minister does not seem to be willing to take on board the substantial difference between his amendment and the amendment foreshadowed by the member for Armadale. If the vote is not won by the Opposition, the member for Armadale will not have an opportunity to move her foreshadowed amendment, so I ask the minister to read again the different wording to see that there is a difference. If the minister's amendment is passed, clause 11(1) will read -

> An Assessor mediating an appeal is to give the Director a written report stating whether or to what extent the mediation of the appeal was successful.

That indicates a requirement for a report, and the report is to emphasise whether, and to what extent, the mediation was successful. It does not limit the report from covering the range of issues. It specifies that the report will state whether, and to what extent, the mediation was successful. Under that legislation it could be a full report as long it states that aspect. Let us turn to the amendment foreshadowed by the member for Armadale.

Mr Kierath: We have not debated that.

Mr KOBELKE: No, but if we carry the minister's amendment, the member's foreshadowed amendment cannot get up because it is a test vote. I am putting to the minister what would be proposed if we were to turn down the minister's amendment. Clause 11(1) would then read -

> An Assessor mediating an appeal is to give the Director a written report except that where a mediation has not resulted in agreement between the parties the assessor will not provide the director a report on the outcome of the mediation until after the appeal has been determined.

That is quite different from the minister's proposal. It says that if there is not a successful result to the mediation, there will not be a report. That is so there cannot be a report which will be damaging to the appellant because for some reason it could be painted that they were not as cooperative as they might have been in the mediation process. A range of procedural matters might be caught up in that. They could be part of the report. The minister's amendment does not exclude them from the report, it simply emphasises that the successful aspects must be reported on. The report is not excluded from going into a range of other matters that could prove negative to the appellant when they move to the next stage; whereas the member for Armadale is suggesting that is not appropriate to the mediation process. Therefore, her amendment would rule out any report being made to the director unless there was successful mediation. That is the fundamental difference between the minister's proposal and the concerns of the Opposition so ably put forward by the member for Armadale.

Mr KIERATH: I had not addressed the amendment foreshadowed by the member for Armadale and had confined my comments to the amendment I had moved.

Mr Kobelke: It is a test vote.

Mr KIERATH: I had been running the line of "the words to be deleted and inserted" from the viewpoint of my amendment. The amendment foreshadowed by member for Armadale would mean that if there were only partial agreement, the mediator could not produce a report. The Government thinks that is wrong, and that the assessor should produce a report. Under clause 11(3) the registrar is to give each party a copy of the assessor's report. If there were something in that report that the parties did not like, they would take that up at that stage. The position is covered either way. The director needs to know if there has been partial agreement, and whether the parties have complied with the provisions. That is encompassed by my amendment. I am a bit puzzled about why we are debating this, unless we are filling in time because we have another five minutes before a lunch break. The Government's amendment has tried to cover the important issues of

producing a report and allowing that report to be transmitted if there has been partial success, or if a person has complied with proposed section 9.

Mr KOBELKE: I do not accept the minister's interpretation of the amendment foreshadowed by the member for Armadale. The member's foreshadowed amendment does not say there must be agreement on all aspects. It clearly excludes there being a report unless there is an agreement. It may be an agreement in part at that stage of the mediation. If there is a partial agreement, that is an agreement of a form, even though it may not resolve the whole issue. I do not accept the minister's statement that the foreshadowed amendment by the member for Armadale would mean there would be no report if there were a partial agreement. That is based on the mechanisms we are looking at as opposed to what we are trying to achieve. The minister's interpretation of the foreshadowed amendment is not correct and it would not exclude reports being made where there was a form of agreement that may not be total agreement on the issue before mediation.

Ms MacTIERNAN: What does the minister think is the problem that was raised by the Western Australian Municipal Association? The minister said he drafted it in response to the association's request for a different form of words, so I presume it wanted some legislative response. Can the minister explain what WAMA saw as the problem, and how he believes that this amendment addresses the problem? This amendment astounds me because it does not address the sorts of problems that WAMA identified.

Mr KIERATH: WAMA's approach was in two parts. It wanted part negotiations and part agreement to be carried through, and where there had been agreement it did not want that jeopardised in relation to further requirements, albeit there were obligations they had to meet. Those were the instructions that we gave to our counsel, and this is the form of words that came back. I said to the member for Armadale that I felt that even without the amendment the form of words in the clause allowed that to happen. However, WAMA wanted something more specific, so we went back to parliamentary counsel and its advice was that this amendment will make it a little more specific than the general provisions. From that point of view I am satisfied. I have not pushed for this, WAMA wanted it; and I am satisfied that it addresses WAMA's concerns.

Ms MacTIERNAN: The minister has conveniently forgotten that WAMA objected to the notion of a report going to the director before agreement was reached.

Mr Kierath: There are some things that we accepted and some that we did not. I do not accept that a report should not go up. Having said that there should be a report, we asked WAMA how we could make that more acceptable. WAMA told us its concerns about the report, so we drafted this amendment to accommodate them. Granted, this is not WAMA's full position, but it is as far as we can go to accommodate WAMA.

Ms MacTIERNAN: It has nothing to do with WAMA's position. Why does the director need the report? If the minister could explain what he sees as the role of this report, we might get to understand where it is going.

Mr Kierath: It is laid out in the Bill.

Debate adjourned, pursuant to standing orders.

[Continued on page 5499.]

MR KIM SCOTT, PREMIER'S BOOK AWARDS

Statement by Member for Willagee

MR CARPENTER (Willagee) [12.50 pm]: I take this opportunity to congratulate a constituent of mine, Mr Kim Scott of Coolbellup, who has won the Premier's Prize in the Western Australian Premier's Book Awards, Western Australia's highest literary awards, for his second novel *Benang: From the Heart*. The book examines Western Australia's assimilation policies which were in force for much of the last century and led to the stolen generation. Kim Scott has drawn upon the rich and largely untold aspects of the story of settlement of the State's south coast. He fictionalises and intertwines strands of his own Aboriginal and non-Aboriginal family histories and embeds them in the framework of social history and the official government policy which had such a damaging impact on many indigenous families in this State, the effects of which reverberate loudly in our community today. The result, *Benang*, is a beautifully written, engrossing and moving story in which all of the complex outcomes of the coming together of two vastly different cultures over several generations are exposed and explored in a way which has not been done before in Western Australian literature; and it has been justly rewarded. *Benang* tells us much about ourselves as a people in Western Australia. It was published by Fremantle Arts Press.

Kim Scott grew up in Albany and attended Albany High School and Murdoch University. He lives in Coolbellup with his wife Reenie and their two sons who attend Coolbellup Primary School. I congratulate him on his outstanding achievement.

ESPERANCE FLOODING, DAMAGE TO BRIDGES

Statement by Member for Roe

MR AINSWORTH (Roe) [12.52 pm]: Recent flooding attributed to cyclone Steve has focused much attention on Carnarvon and the north west, but at the same time there were significant flood events in the Esperance area and along the south coast. On the weekend of 11-12 March, up to 132 millimetres of rain fell west of Esperance on an already very wet catchment area in which heavy summer rainfall had filled the lakes and increased the subsoil moisture. As a result of the rain, the approaches to three bridges on the South Coast Highway were washed away. The Coolgardie-Esperance Highway

to the north was also flooded in several places and there was still water 30 centimetres deep over a stretch of 150 metres when I drove through there last Friday night. The rail link to Esperance was also cut temporarily. The South Coast Highway will not reopen to traffic until Tuesday, 28 March; it will have been closed for more than two weeks. Only light traffic has been able to use the detour which is an extra 110 kilometres. Business has suffered a significant economic loss.

We had similar problems last year when one bridge was lost. We need an alternative route. The Cascade-Lake King road was upgraded to a certain extent two or three years ago under the stewardship of the former Minister for Transport, Hon Eric Charlton, at a cost of $760 000. That road is now the only heavy haulage link to Esperance but it is also subject to some flood damage and needs to be upgraded significantly to provide an alternative route in the event of such occurrences in the future.

GST, CAR RENTAL FIRMS

Statement by Member for Bassendean

MR BROWN (Bassendean) [12.53 pm]: A number of businesses are about to collapse under the weight of the goods and services tax. I recently received correspondence from a car rental company which indicates the massive implications for that company. The letter states -

> The transitional measures on motor vehicles will cripple our industry.
>
> We will carry vehicles from pre GST to post GST (this is a fact of life). These vehicles will have been purchases with Wholesale Sales Tax. When they are sold post GST we are liable to pay GST for which we will receive no input credit. New Vehicles will come down in price post GST as well as used vehicles so these vehicles will not realize their pre GST resale value.
>
> These extraordinary costs we believe will be in the region of 18% of the purchase price of the vehicles. It is our estimation this would cost the franchise of . . .

The company is mentioned. It continues -

> . . . approximately $2,000,000. This does not include our Parent Company, which is facing losses in the order of $5,000,000. Our franchise network is made up predominantly of small business people like myself who could not survive such an impost.
>
> If you factor in these cost increases on top of the GST we would need to add 28% to our prices. As I am sure you will appreciate a price rise of that magnitude would lead to a massive drop off in Car Rental usage.

This is a critical issue for small business and for the tourism industry that relies on the car rental industry. Unless changes are made by the Federal Government, businesses - particularly small businesses - in a range of sectors will collapse.

MOSQUITO OUTBREAK, MANDURAH

Statement by Member for Dawesville

MR MARSHALL (Dawesville - Parliamentary Secretary) [12.55 pm]: I congratulate the Minister for Health, Hon John Day, for his immediate response to an urgent call sent out by my constituents regarding mosquitoes in the Mandurah area during the holiday period. The mosquito outbreak commenced when one cycle of breeding was not treated with aerial spraying in November last year. That was due to the helicopter crashing in Lake Monger, with three weeks being needed to build new spray containers. On top of that, unseasonal rain and abnormally high tides combined to create perfect conditions for breeding. The mosquitoes were out of control. Locals and tourists could not have a barbecue; children could not play outside after school; young babies were at risk; walkers and joggers were reluctant to exercise; and Ross River virus was always in the minds of the community.

The Mandurah City Council has now aerial sprayed 21 times this year, compared with 12 times last year and 15 times the season before. On every occasion the helicopter sprays, it costs $20 000. On top of that, Mandurah City Council has responded to urgent pleas by fogging areas of concern. Fogging, though, is only a short-term measure.

The Minister for Health, Hon John Day, attended a meeting in Mandurah, summed up the situation and immediately granted extra money for more aerial spraying. In addition to this, tenders have closed for the $1m runnelling project. It is anticipated that this project will solve 80 per cent of the mosquito problem. Thankfully, with the extra spraying, the mosquito plague has subsided. All I can do is thank the minister.

BUS SERVICE, KWINANA

Statement by Member for Peel

MR MARLBOROUGH (Peel) [12.57 pm]: On 2 April, the people of the Town of Kwinana will be able to use a transport system that will run through the town of Kwinana direct to Perth and/or Fremantle. Presently, Kwinana residents must board a bus which drives 3 kilometres out of town; they then change buses to go to Rockingham, Fremantle or Perth, which in many instances adds some 40 minutes to their travelling time. When the bus system runs through Gilmore Avenue, with the new bus station, on 2 April, that change will be welcomed. Unfortunately, on that day the buses will not be able to run to their proper capacity.

Mr Shave: No buses?

Mr MARLBOROUGH: No. It is due to the fact that Western Power has not installed the power system required for a new set of traffic lights at the corner of Gilmore Avenue and Thomas Road. The sad part about that is that Western Power was given plenty of notice. Some six months ago, the Department of Transport, through Main Roads, advised Western Power of the need to have power to that site so that the buses could run to their agreed capacities. Western Power has simply said that it was not able to do it in that time, and we are now looking at a two-month delay beyond 2 April until the buses can be brought up to standard. I call on the Minister for Energy to treat this matter urgently and require Western Power to connect power to the site as soon as possible so that the bus system can run effectively.

JOONDALUP FESTIVAL

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.58 pm]: I use this opportunity to bring to the attention of members this weekend's year 2000 Joondalup Festival to be based in the Joondalup regional city centre. This exciting festival is the highlight of the City of Joondalup's summer events program, which was initiated last year and which attracted some 53 000 people. This year's festival kicks off at 12 noon this Saturday, with free, non-stop entertainment until late on Sunday evening.

The festival's activities and events are many and varied and include performances by the Perth Jazz Orchestra, Perth's finest jazz vocalists, Eskimo Joe, Bizircus, The Fling, Autopilot, the Sensitive New Age Cowpersons, the Sambeatas, Rhibosome electronic music, Techno Opera, the Kavanagh Irish Dancers, as well as mural arts, bike jumping competitions, skateboarding competitions, jugglers, buskers, gladiator sports, sumo activities and children's activities, with the highlights of the festival being the street parade at 7.00 pm on Saturday and the lotto skyworks at 7.00 pm on Sunday.

I thank the members of the Joondalup festival committee, the new mayor, and councillors and staff of the City of Joondalup for organising this wonderful weekend of community entertainment for the people of the northern suburbs, particularly the families of the Joondalup region.

Sitting suspended from 1.00 to 2.00 pm

POTENTIAL SECURITY BREACH - MEMBERS' LAPTOP COMPUTERS

Statement by Speaker

THE SPEAKER (Mr Strickland): Before we move into question time, I have a statement with respect to a potential security breach in members' laptop computers.

I have been advised that over the past several weeks contractors for the Ministry of the Premier and Cabinet have been installing computer software on members' parliamentary laptop computers. The Parliament's information technology unit has identified that the procedure used has led to a potential security breach. The parliamentary IT unit is now assisting the Ministry of the Premier and Cabinet in resolving the problem. However, in the interim, members should not connect to the Parliament House network until they have spoken to the parliamentary IT helpdesk on extension 200. The President is advising members in the Council in the same terms and the Premier and the Leader of the Opposition will receive a copy of the statement.

[Questions without notice taken.]

ACTS AMENDMENT (EVIDENCE) BILL 1999

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Prince (Minister for Police), read a first time.

Second Reading

MR PRINCE (Albany - Minister for Police) [2.40 pm]: I move -

> That the Bill be now read a second time.

The Evidence Act and the Justices Act were enacted in 1906 and 1902 respectively and have been the subject of a number of amendments since. To facilitate the more effective prosecution of offences, further amendments are now necessary. The changes are part of this Government's recognition of the community interest in an equitable and efficient legal system.

The Bill proposes a number of separate reforms, primarily to the Evidence Act and the Justices Act. Consequential minor amendments to the Criminal Code and the Children's Court of Western Australia Act are also proposed. In particular, the amendments effected by the Bill will -

> facilitate the admission of documentary and foreign evidence in trials involving complex commercial crime;
>
> allow for the admission of documentary evidence created using modern information technology;
>
> permit child and vulnerable witnesses to give their evidence on videotape to save them from the trauma of giving evidence in open court;
>
> remove inappropriate requirements for the tendering of statements of child witnesses at the early stages of the prosecution process;

allow the use of witness statements in prosecutions for crimes in the Children's Court and where there is an ex officio indictment if the witness has died, is too ill to come to court, or simply cannot be found before the trial;

restore an element of fairness when an accused person makes unsubstantiated assertions against the character of a deceased victim of a crime;

extend certain provisions in the Evidence Act to the prosecution of offences where the offender has been charged with repealed Criminal Code sections; and

allow a complainant in a sexual offence to authorise the publication or communication of their name without being held to be committing a crime.

I now address each point in turn.

Admission of documentary and foreign evidence in complex commercial proceedings: The inherent complexity of commercial trials makes the litigation or successful prosecution of business-related matters difficult to achieve. Currently, the Evidence Act requires that before a document may be admitted as evidence, a witness must be called to testify as to the truth of any statements in the document. In commercial trials, the strict adherence to this principle requires that parties must call witnesses to prove matters which are not genuinely in dispute. This is exacerbated in complex fraud trials involving voluminous business records where an uncooperative party simply objects to every document that is sought to be produced. Under the Bill, business records can be tendered as evidence without calling as witnesses persons who supplied the information in these records unless the court considers it in the interests of justice to do so. This will reduce the length and costs of the trial and aid in the jury's comprehension of the issues.

In addition, the Bill will give trial judges the discretion to allow or direct the use of charts, summaries and other aids to explain, follow or review complex and voluminous evidence. The use of these devices will not be restricted to simplifying business documents, as they will apply to allow evidence in summary form of any type of complex evidence when the trial judge considers it to be appropriate to do so.

The Bill also seeks to redress a limitation in the Evidence Act relating to the admissibility of evidence obtained in foreign jurisdictions and, more specifically, entries in bankers' books. The Evidence Act contains provisions that allow for a more relaxed method of proof where evidence is composed of bankers' book entries. However, this Act limits the use of these provisions to bankers' books of banks in any State or Territory of Australia. This restriction does not take into account the fact that many commercial trials involve financial transactions in foreign banks. The Bill removes the restriction so as to facilitate the admission of the financial records of foreign banks, where they are relevant, in complex commercial trials.

Admission of documentary evidence created using modern information technology: It is a general legal principle that a party seeking to prove the contents of a document must produce the original document. This rule was developed before the advent of photocopiers and has, to a large degree, been superseded by developments in technology. Previous amendments to the Evidence Act have sought to modify that rule so as to make possible the admission of reproductions in court. However, advances in modern information technology have meant that the existing criteria for admitting such reproductions are no longer appropriate. The Bill replaces the current outdated regime governing the admissions of reproductions with a new regime that is far simpler and broad enough in its scope to achieve the admission of reproductions made with modern information technology. The new provision is modelled upon section 44C of the South Australian Evidence Act, which does not require the loss of the original document to be established before the reproduction can be admitted into evidence.

Use of videotaped evidence given by children and vulnerable witnesses: In 1992 the Evidence Act and the Justices Act were amended to allow the videotaping of evidence given by children and other vulnerable witnesses. The effect of one of those amendments was to make mandatory the videotaping of pre-trial evidence. However, there was no obligation imposed to record evidence given by children or vulnerable witnesses through closed circuit television or through a screen that was not part of pre-trial proceedings. Furthermore, the court was not given the power to allow the use of videotaped evidence at the first trial, or pre-trial hearing, at any subsequent retrial or trial. This required the child or vulnerable witness to give evidence again, and subjected them to unnecessary distress.

The Bill will overcome this problem by requiring the videotaping of evidence given through closed circuit television or through a screen. The Bill also allows the court to order that where the child or vulnerable witness has already given videotaped evidence, that evidence can be used again in any trial or subsequent retrial.

Inappropriate requirements for the use of child witness statements in court proceedings: An amendment to the Justices Act in 1992 empowered the courts to allow children's evidence to be received at a preliminary hearing in the form of a previously made written or electronically recorded statement. Where the statement is admitted, the child complainant should not be called to appear unless the justices are satisfied that there is good cause to do so. However, in order for such a statement to be admitted, it must be accompanied by a declaration made by the witness as to the truth of the statement. In practice, prosecutors and police officers have found that this declaration is entirely inappropriate for children under the age of 12 years because these children have great difficulty in understanding the declaration. The Bill removes the requirement for a declaration for children under the age of 12. Whether such a child ultimately gives evidence will be dependent on the presiding judge or magistrate being satisfied that the child is competent to give evidence.

Use of witness statements where the witness has died, is too ill or cannot be found: The Children's Court of Western Australia Act currently enables a child who has been charged with an indictable offence to elect to be dealt with in a hearing

in the Children's Court as if it were a trial on indictment. However, there is no procedure for the prosecution to use witness statements in this situation if the witness has died, become too ill to attend or simply cannot be found prior to trial.

There have been at least two cases in the Children's Court involving serious charges where the prosecution case has been dependent on the evidence of a deceased person. In both, the Crown's inability to tender statements of the deceased was a severe limitation. There is a similar restriction in the case where a witness dies, becomes ill or disappears prior to the trial of an accused who is being tried on an ex officio indictment. An ex officio indictment is an indictment where an accused has not been committed for trial but the Director of Public Prosecutions has filed an indictment. The Bill will allow the use of witness statements made in accordance with section 69 of the Justices Act if the court is satisfied that the witness is dead, too ill to attend court or cannot be found.

Unsubstantiated imputations cast on the character of a deceased victim of crime: The Evidence Act currently prevents an accused person, when giving evidence, from being asked questions that would reflect badly on his character. However, where the accused personally, or by his advocate, presents his case in such a manner as to cast imputations upon the character of a prosecution witness, he then loses this protection. The problem arises, particularly in homicide cases, where an accused makes allegations of misconduct against a deceased victim of crime, who, naturally, is unable to answer. The accused is free to cast unsubstantiated imputations against the character of the deceased without calling into question his own character. The Bill will amend the Evidence Act so as to allow the prosecutor the ability to call into question the character of an accused where he makes such allegations against a deceased victim of a crime. The amendment is based upon section 31 of the United Kingdom Criminal Justice and Public Order Act 1994, which has proved effective in giving judges the discretion to allow an accused to be cross-examined as to his character if he raises imputation on the character of the deceased.

Extension of the Evidence Act provisions to prosecutions where the accused is charged with repealed code sections: The Criminal Code was amended in 1992 to change the law relating to sexual offences. The result was to replace the existing chapter XXXIA of the code with the current chapter XXXI. However, the consequential and subsequent amendments to the Evidence Act have failed to take into account the fact that offences under the repealed code section are still being brought before the courts. This is in relation to the evidence of child and special witnesses, the evidence of spouses of a defendant in criminal cases and the protection of the identity of the complainant in sexual offence cases. The Bill contains several provisions that will extend the operation of these various Evidence Act provisions to trials where the accused has been charged under a repealed code section.

Decriminalisation of the complainant's authorisation of the publication of their name in sexual offences: Section 36C of the Evidence Act currently provides that it is an offence to publish the names of complainants in sexual offences. However, if a complainant decides to communicate or publish the fact that he or she is a victim, the complainant would be breaching this section. The Bill will allow complainants in sexual offences to reveal their identity if they so choose. The Bill also increases the maximum penalty for publishing the names of complainants in sexual offences to a fine of $5 000 for individuals and $20 000 for corporations. The present maximum penalty of $500 is too low to be effective in deterring a person or corporation from publishing material that breaches this section.

Conclusion: Given the technical nature of many of the amendments contained within this Bill, I urge all members of the House to closely read the explanatory clause notes provided. This Bill will implement a number of long overdue reforms to the law of evidence in this State. These changes are consistent with the Government's goal of making our legal system simpler, more efficient and more accessible. The reforms also reflect the Government's response to community concern over issues relating to the legal system, including its unnecessary complexity, its slow recognition of changing technology, and its perceived insensitivity to the distress experienced by children and vulnerable witnesses when giving evidence in court. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

KING EDWARD MEMORIAL HOSPITAL FOR WOMEN AND PRINCESS MARGARET HOSPITAL FOR CHILDREN

Standing Orders Suspension

MS McHALE (Thornlie) [2.50 pm]: I move -

> That so much of the standing orders be suspended as is necessary to enable the House to consider forthwith a motion to censure the Minister for Health for his failure to explain to the House the true nature of the problems at King Edward Memorial Hospital for Women and Princess Margaret Hospital for Children.

I understand the Government has given qualified support to the suspension of standing orders.

MR BARNETT (Cottesloe - Leader of the House) [2.51 pm]: The Government will agree to a suspension of standing orders, on the understanding that the debate will go for no longer than one hour in total. The Government agrees to that because, as members are aware, there will be a debate about censure and standing orders, regardless. Secondly, King Edward Memorial Hospital is a very important institution and there is a great deal of public interest in any issue to do with that hospital. On that basis, the Government agrees to the debate.

However, I state for the record that should the Opposition assume there will be effectively one matter of public interest debate and one quasi MPI debate a week, that will not be the case. The Government agrees to it because of the special

circumstances in this case, and I am sure the Minister for Health will be able to fully explain the situation and probably welcomes the opportunity to speak on the King Edward Memorial Hospital. The Government agrees on this occasion, but it will not regularly agree to such suspensions.

MR KOBELKE (Nollamara) [2.53 pm]: The mover did not speak to the suspension of standing orders at any length, because the Opposition wishes to move to the motion straight away. I wish to make two points. First, the Leader of the House is showing good management by allowing this debate on the motion to go ahead, rather than a debate on the suspension of standing orders. We can move straight to the substantive issue, and the Opposition will meet his request to keep its contributions brief and to take no more than 30 minutes. Secondly, this matter is urgent because this very important matter was not answered by the Minister for Health when he was given an opportunity on Tuesday. I give notice to the Leader of the House and the Government that if ministers in this House simply duck their responsibilities on major issues of importance to this State, members on this side will be after them with everything available under the standing orders. This debate will show that the minister has reneged on his obligations, and we hope that today he will provide some answers to these very important questions.

Question put and passed with an absolute majority.

Censure Motion

MS McHALE (Thornlie) [2.55 pm]: I move -

> That this House censures the Minister for Health for his failure to explain to the House the true nature of the problems at King Edward Memorial Hospital for Women and Princess Margaret Hospital for Children.
>
> Further, the House now calls upon the minister to give a full explanation of the terms of reference of the review and the background to the serious problems at King Edward Memorial Hospital.
>
> In particular, the House requires that the minister -
>
> (i) explain why he did not tell the truth about the review in Parliament on 21 March 2000;
>
> (ii) table the background papers held by the Metropolitan Health Service Board leading to the inquiry;
>
> (iii) advise when the hospital problem was first reported orally to the Metropolitan Health Service Board;
>
> (iv) confirm that the issue was referred in writing to the board last year;
>
> (v) advise when the minister was first made aware of the hospital problem and what he did about it;
>
> (vi) confirm that the minister advocated a proper Hospitals and Health Services Act inquiry and not the internal review which is now taking place;
>
> (vi) explain why the minister's preferred option in relation to the inquiry did not occur; and
>
> (viii) table a copy of the King Edward Memorial-Princess Margaret Hospitals procedures or protocol for dealing with adverse incidents.

The Opposition believes this matter must be dealt with today in light of the minister's comments in the media about the gravity of the allegations that stand before the King Edward Memorial and Princess Margaret Hospitals. Very serious allegations of negligence have been reported, and they have been confirmed by the Minister for Health. I will elaborate on them.

This matter goes to the issue of unexpected and unexplained deaths and birth defects over a number of years. The allegations go to tampering with files to avoid reference to adverse incidents, or not keeping accurate file records. There is a theme throughout the media comments and the information that has come to the Opposition that there is a cover-up of adverse incidents. That is of serious concern to this House. The community needs to know what has gone wrong at King Edward and Princess Margaret Hospitals, that we will get to the truth of the allegations and that there is a proper avenue to deal with the findings of the internal inquiry.

The first point of the motion requires the minister to explain why, on Tuesday 21 March, he did not tell the truth to this House about the nature of the inquiry at King Edward and Princess Margaret Hospitals. The minister has had ample opportunity to tell us about the review, and yet he has declined to do that. For instance, in February when the inquiry was initially reported, the minister could have indicated what was happening. However, we were given a very unclear description of the review. In fact, there was nothing to indicate the gravity of the allegations as we now know them. Had the minister seen fit, he could have made a brief ministerial statement in this Parliament on the state of the King Edward and Princess Margaret Hospitals, but he chose not to do that. He could have answered my question on Tuesday of this week, when I asked him to confirm that the review was about the unexpected and unexplained deaths and birth defects. Yet, he declined to tell the House what he has now conceded by way of media comments. Instead, the minister responded by vaguely saying the review was about the adequacy of the provision and resourcing of obstetric services. He said concerns had been expressed about the provision of services at the hospital, and the board was taking action. He said the review was designed to ensure that obstetric services are appropriately provided and resourced. We could have told the minister that they were not adequately resourced, but at no time did the minister go to the heart of the issue; that is, it is very clearly about clinical cases and the management of those cases, as he said this morning.

By inference this morning, he suggested that a by-product of the inquiry could be the discovery of past practices and, only by extrapolation, could one draw the conclusion that things had gone wrong, when the minister referred to inappropriate supervision or similar problems. That is hardly a reference to the allegations that the minister is now finally conceding about birth defects, deaths, tampering with files and the like. The community cannot be assured from the minister's totally inadequate answer on Tuesday that the things that have gone wrong at King Edward Memorial and Princess Margaret Hospitals are being addressed. We ask the minister to explain why he did not tell the truth on Tuesday about the review, when he had ample opportunity to do so.

Paragraph (ii) of the motion requires the minister to table the background papers held by the Metropolitan Health Service Board leading to this inquiry. We believe this will help us to get a better understanding of the full extent of this problem and of the true issues. If the minister does table the background papers, we will find that there is strong material to warrant an independent inquiry. The minister conceded on radio this morning that concerns had been expressed from within the hospital - these would by their very nature be clinical concerns - and that these concerns had been referred to the Metropolitan Health Service Board and the Health Department. It is incumbent upon the minister to table those papers so that we can see the gravity and seriousness of these allegations and to what extent the board has material that may help it to determine what to do with this serious matter.

Paragraphs (iii) to (v) of the motion require the minister to tell this House in clear and concise detail when the Metropolitan Health Service Board was first alerted to the problems at King Edward Memorial Hospital. The minister told me on 2 March that the review was formally brought to the attention of the board on Friday, 11 February 2000. That is clearly not accurate. It is not possible that the board would have been ignorant of the review until 11 February. It would have known about this matter months prior to 11 February. We want to know when the board first knew about the review - not when the board formally ratified the review, because that is a matter of process, but when the problem was first reported orally to the board, and when the issue was referred in writing to the board. That will then indicate for how long the senior bureaucrats have known about this problem. We want the minister to confirm that this matter was referred to the board some time last year and to tell us when it was referred to the board. There is a vagueness in the minister's answers about when he or anybody else first knew about these allegations. We want to know for how long this matter has been a subject of consideration by the Chief Executive Officer of the Metropolitan Health Service Board, the Commissioner of Health and the Chief Executive Officer of King Edward Memorial Hospital. The fact is that the board would have known about the review, given the comments of Michael Moodie in *The West Australian* of 10 November, when he suggested that the review was about accessing services. The minister would have known then that the review was not about accessing services but was about unanticipated deaths and birth defects - a very serious and alarming accusation.

Paragraphs (vi) and (vii) of the motion go to the heart of my concern; that is, the nature of this inquiry. The minister has established, through the CEO, the board and the Health Department, but ultimately through himself as minister, an internal peer review or inquiry, albeit by an outside medical practitioner and a midwifery lecturer. However, the minister in his media statement appears to hold the view - it may not be very well expressed, or expressed at all - that perhaps there should have been an independent inquiry. I ask the minister to confirm that he advocated an inquiry under the Hospitals and Health Services Act and not the internal review that is now taking place; and, if that is the case, I ask the minister to explain why his preferred option was not implemented. The minister has the authority under that Act to establish that inquiry, which would have the force of a royal commission, with the power to obtain and examine documents which might not be forthcoming in an internal review, call witnesses, enter premises and the like.

The minister told me in his correspondence that the internal review will report to the CEO of the hospital. It will not report to the board or the minister.

Mr Day: Yes it will.

Ms McHALE: That is not what the minister told me; so if the minister has changed his view, it is only by virtue of pressure. The minister told me that this review will be managed by the chief executive of King Edward Memorial Hospital. The minister said nothing about the inquiry ultimately reporting to the minister. The minister has obviously asked to be kept informed, but that is not the same as the inquiry reporting to a higher body than the chief executive, who by virtue of his position will be part of the matters that will be subject to the inquiry. Why did the minister not follow his instincts and call an independent inquiry? That would have been a far better approach. Why did he let Crown Law convince him otherwise? I indicate also that I told the chief medical officer after his extensive briefing on the matter that given the gravity of the allegations, and given the concern that he and others felt, an independent review would in the long term be far more advantageous for the women of Western Australia in getting to the truth of what is taking place at these hospitals. The fact that it will now be an internal review reinforces my view that there has been a cover-up and an attempt to play down the seriousness of the allegations and not give credence to the already substantial body of concern.

The final paragraph of the motion requires the minister to table a copy of the KEMH and PMH procedures or protocols for dealing with adverse incidents.

We require that the minister table those documents at least so that we can be reassured that they exist. However, we have our doubts that appropriate and adequate procedures and protocols are in operation. When the minister was quizzed this morning on radio station 6PR he virtually alluded to the possibility that there may not be appropriate protocols. We are asking the minister to table those protocols so that we can be assured that they are adequate to deal with adverse incidents or claims of alleged negligence. This is not a matter which can be dealt with lightly. Grave concerns have been raised within and outside the hospital, and also from a legal perspective. The Health Department already has significant evidence

to suggest that there are grave clinical concerns about the management of some of the cases over recent years. The Minister for Health, the Metropolitan Health Service Board and the Health Department have known about this problem for months; there is no doubt about it.

If the minister has not known about it for months, then that is shameful. If the minister did know about it, it is even more shameful and reprehensible that on occasions he has had the opportunity to do so, he has not briefed this Parliament. The minister has chosen to have others speak and to obfuscate inquiries into this matter. It was not until the questions were asked in this Chamber on Tuesday, and following subsequent inquiries, that the minister conceded the true parameters of this inquiry. The minister knew on Tuesday, but failed and refused to tell the Parliament. That is unforgivable and it deserves censure for this dereliction of responsibility.

MR DAY (Darling Range - Minister for Health) [3.14 pm]: I welcome the opportunity to respond in this debate. I very much agree that the substance of the issues which are being discussed is indeed serious.

Dr Gallop: Why did you not come into the Parliament?

Mr DAY: If the member actually listens to my explanation he will fully understand and be better informed about the situation.

Mr McGinty: This matter would not be out in the public arena if it were not for the questions the Opposition asked, and the Minister for Health is not telling the truth about it.

Mr DAY: The Opposition is trying to make a case that I have misled Parliament in some way in my response to a question that was asked of me recently. However, the facts simply do not bear that out at all. The Opposition's motion to censure me for the various reasons expressed simply does not hold water; it does not have foundation and I will demonstrate why.

First, it is important to appreciate that the review was established by the Metropolitan Health Service Board, not by me as Minister for Health. That in no way indicates that I am seeking to distance myself from the matter. Indeed, I am vitally interested in the outcome of the review and in the issue generally. I have made that very clear to the Metropolitan Health Service Board both verbally and in writing. I have very clearly requested that it inform me of the outcomes of the review.

The review has been established for good reasons, which I will demonstrate, by the Metropolitan Health Service Board on the recommendation of the chief executive of the hospital. Therefore, that organisation in general, and the chief executive officer in particular, have the primary responsibility for the carriage of the review. I accept that, in general terms, I have ministerial responsibility for events which occur in public hospitals, but we also have well paid and experienced managers in place to deal with these issues and to manage the complex matters which arise on a daily basis in our public hospital system.

To emphasise that point it is worth looking at the memorandum, dated 20 March last, which was sent to the staff of King Edward Memorial and Princess Margaret Hospitals by the chief executive, Michael Moodie. Among other matters, he stated that the review would cover a range of issues with a general focus on determining whether the systems in place at King Edward Memorial and Princess Margaret Hospitals supported high-quality patient care. The memorandum then went on to explain who would be undertaking the review and stated further -

> Both Dr Child and Ms Glover are interested in receiving the views of any member of staff who wishes to provide information to them.

First, this memorandum to staff from the chief executive officer, who has direct responsibility for this review at this stage, indicates that it has been established with a general focus on determining whether the systems in place support high-quality patient care. Secondly, the memorandum invites people who have concerns to come forward on a confidential basis so that those issues can be properly made known to the reviewers and then further action can be taken if that is appropriate.

It is worth going through some of the chronology of the events in relation to this matter, in part to answer the matters which have been raised by the member for Thornlie. The chief executive of the hospital, Michael Moodie, took up his duties in February 1999 and, following his appointment, he quite naturally and properly made himself known to a wide range of staff in the two hospitals for which he has responsibility and became acquainted with issues which were raised with him by staff. These included matters of concern, matters of practice and a whole range of other issues with which, as manager, he should be familiar. I am advised by him that in March last year the first general comments were made to him expressing concerns - which were not specific in nature - about some gynaecological practices. In July last year some general and non-specific, non-identifying concerns were expressed to him from within the hospital about some clinical practices in the area of obstetrics. Following that, the chief executive took further action and discussed the issue with other people within the hospital system. In October of last year he received some advice which he put in writing, as I understand for the first time, expressing some concerns about clinical practices.

Dr Edwards: Who was the advice from?

Mr DAY: I am not going to identify who the advice was from because I think that would be unfair on the individuals and in all that I say I am not -

Mr McGinty: I will tell you if you like; it was the lawyer employed by King Edward Memorial Hospital. Do not go around trying to cover up the facts; we know that you know, and you should be in here telling the truth. Try that for a change!

Mr DAY: The member for Fremantle has jumped to a conclusion which he might think is right, but which is not necessarily right.

Mr McGinty: I know who it was; why don't you tell us who it was? You know. As the Minister for Health, you are accountable to tell the truth.

Mr DAY: I will come to the member's point in a moment. The chief executive had sought advice which he received in October of last year. In addition to that clinical advice - and, as I said, I am not going to identify the individuals involved because it would be unfair on them for them to be identified as people who have been providing advice about some of the concerns expressed to the chief executive -

Mr McGinty: You have babies who have died, you have birth defects, and the minister is playing prissy games here and not telling the truth!

Mr DAY: In addition to the clinical comment which the chief executive sought, in about October of last year he sought legal advice internally within the hospital, and that advice was provided to him. In October, legal and clinical advice was sought. On receipt of the comments that were made from a legal perspective, the chief executive sought further legal advice from solicitors outside Western Australia so that there could be no concerns about conflict of interest or about information being made available within Western Australia in an inappropriate way. That advice was sought in November of last year. In general terms, the chief executive was advised that the assertions which had been made in the other advice he had been given were not proven, but certainly they were of concern and they should be formally referred to the chief executive officer of the Metropolitan Health Service Board.

That was done in late December of last year when the chief executive wrote to the CEO of the Metropolitan Health Service Board. Subsequently there were discussions with the chief medical officer, Dr Bryant Stokes. I am happy to identify him because that is well known publicly. The chief medical officer asked another medical practitioner to conduct an initial review of the issues that had been raised with him by the Metropolitan Health Service. That initial review was undertaken by a retired medical practitioner, not someone with an obstetrics or gynaecological background specifically, I understand, but, nevertheless, with medical expertise. It was only a preliminary review. Again, he confirmed the previous advice that the conclusion was that the matter should be investigated more thoroughly. It is important that that advice was received because it came from somebody with a clinical medical background.

In mid to late January of this year the issue was raised and discussed with me. I was made aware in very general terms of the nature of the concerns that had been expressed. At the same time the chief medical officer sought further legal advice from the Crown Solicitor's office in Western Australia. I am happy to say that, based on the advice I was given and the matters being raised with me in general terms, my initial inclination was that we should put in place a formal inquiry under section 9 of the Hospitals and Health Services Act. It goes without saying that these issues have always been taken extremely seriously by everyone who has dealt with them and, in particular, by me as Minister for Health from the moment that I was first made aware of them.

Mr McGinty: Not in this House. You tried to cover it up.

Mr DAY: The legal advice to the chief medical officer, which was then passed to me by him, was that it would not be the recommended course of action to establish a formal inquiry in the first instance, but that the matters should be considered by a clinical review within the Metropolitan Health Service and that it was desirable to get further information on as cooperative a basis as possible with everybody who would be able to provide information from within King Edward Memorial Hospital. Setting up a formal inquiry is, by its very nature, a much more legalistic process potentially. As I said, the advice was that that was not the preferred course of action in the first instance.

Following that advice, which I was prepared to accept, I made it very clear that it was justified. I had no hesitation in establishing a formal inquiry under section 9 of the Act, and that remains the case. The CEO of King Edward Memorial Hospital, with the endorsement of the Metropolitan Health Service Board, has established the review which is now being conducted by the two clinicians, Dr Andrew Child and Ms Pauline Glover, who are from outside Western Australia. The principal purpose of that review is to establish whether appropriate systems and processes are in place to deal with matters of concern and with adverse incidents that arise at King Edward Memorial Hospital. We must bear in mind that, unfortunately, they occur at every hospital in the world from time to time. The review is not focusing specifically on particular cases; however, some cases are being provided to the reviewers as examples of the concerns that have been raised so that some recommendations can be made to the Metropolitan Health Service Board, to the CEO and to me, as Minister for Health, about whether further investigation should be undertaken. I reiterate: The overall purpose of the review is to look at the processes and the systems which are in place and whether they are adequate to ensure a high standard of clinical care is being provided at King Edward Memorial Hospital.

Dr Edwards: Does the minister have terms of reference that can be tabled?

Mr DAY: Yes, and I was about to mention them. I will be happy to table them. In brief terms, they require the reviewers, firstly, to investigate the clinical cases that are being referred to the review panel; secondly, to comment and make recommendations on the adverse incident monitoring system in place in the hospital; thirdly, to review the administrative and clinical organisation of the obstetrics and gynaecological service at King Edward Memorial Hospital; and, fourthly, to identify areas of best practice obstetrics and gynaecological management or deficiencies of them. The terms of reference also draw attention to the quality management plan and the levels of training, supervision and credentialling for clinical staff. The review is also to consider the patient complaint process. I will be happy to table those terms of reference in full.

That puts in context the review that is under way at the moment. It demonstrates quite clearly that the information I have provided to this Parliament and also on a more widespread basis has been accurate and factual. It also demonstrates that I, as Minister for Health, have been taking the matters that have been raised very seriously, indeed. I am not jumping to conclusions without the matters having been considered properly from a clinical point of view. As I said, there has been some clinical assessment of concerns that have been raised. There has been a more in-depth legal assessment of those concerns, but there must be a more expert clinical assessment and consideration by the medical practitioner and the nursing practitioner who are now in place to review the matters being put before them. Once that is completed, we will be in a far better and more informed position to determine whether a more formal inquiry should be set up or other action taken - for example, the reference to either the Medical Board or the Nurses Board - or as determined within the Metropolitan Health Service Board.

The chief executive, Michael Moodie, put in place a directive in August of last year requiring all clinical directors within the hospital to report any adverse incidents directly to him as chief executive. I understand such a system was not in place previously. It is of the utmost importance that any adverse incidents that occur, particularly serious ones, are thoroughly and properly reviewed and investigated where necessary and the issues taken up with clinical staff involved.

Ms McHale: When did that happen?

Mr DAY: That directive was put in place in August last year. As I have indicated, under the terms of reference we are also expecting the reviewers to comment on whether any further steps should be put in place from the point of view of patient complaint, peer review and quality control.

I also want to emphasise that any member of the clinical staff or other member of staff who is the subject of concern, or ultimately investigation if that occurs, will be afforded all the due processes of natural justice. It is absolutely essential that all people who are subject to investigation have their side of the case heard by anybody who is conducting an investigation. I can assure all members of staff that all the due processes will be followed. I think I have commented on the points raised by the Opposition quite fully. I have gone through the matters which have been raised in the motion.

Mr McGinty: Could you address item eight?

Mr DAY: Yes. That item refers to a request to table a copy of the KEMH procedure or protocol for dealing with adverse incidents. I am happy to do that as far as the protocol is in place at the moment. As I have indicated, following the review being undertaken, it is quite likely that additional protocols will be put in place to deal with these issues at King Edward Memorial Hospital. This joint hospital policy for incident reporting was reviewed in January last year, and it replaces a policy issued in November 1996. In addition, the chief executive has put in place a directive requiring all adverse incidents affecting patients to be reported directly to him so that he can ensure appropriate action is taken. I also table a copy of the memorandum of 20 March sent to the staff of the hospital and a copy of the terms of reference for the review.

[See papers Nos 768-770.]

Ms McHale: Will you also table the August 1999 directive?

Mr DAY: I do not have it at the moment, but I am happy to provide it.

MR McGINTY (Fremantle) [3.31 pm]: Two days ago in this House, the Minister for Health was asked very directly to confirm whether the inquiry that we have heard so much about today was established to investigate unexplained and unexpected deaths and birth defects at King Edward Memorial Hospital for Women. We got a bland response from the minister indicating that the purpose of the inquiry was to look into the provision of services at the hospital. That is not true; that is not what the inquiry is about. The minister then went on to say -

> Concerns have been expressed about the provision of services at the hospital and the MHSB is taking action to ensure that services provided in the future will be well resourced and provided in an appropriate manner.

Mr Day: Why not read out the last paragraph?

Mr McGINTY: That is not true.

Mr Day: That is part of the answer as well.

Mr McGINTY: That is not true; that is not what this inquiry is all about. The minister has told us today that it is an inquiry into whether appropriate processes and systems are in place to deal with adverse incidents. It is not about whether a service should be provided at Armadale-Kelmscott Memorial Hospital or King Edward Memorial Hospital, which he said previously. A very direct question was asked of the minister and he did not tell the truth.

Mr Day: You have not read out the third paragraph. If you had it would put a completely different complexion on it.

Mr McGINTY: It will not. The third part of the answer states -

> If any major concerns are brought to light as a result of this review of clinical practices and procedures -

It is not a review of clinical practices and procedures; the minister has already told us that today. The answer continues -

> . . . whether they relate to past practices or future plans for the provision of services - I have made it clear to the MHSB that I want to be made aware of them. If concerns are raised about past practices, I will ensure that they are thoroughly and appropriately investigated.

The terms of reference do not say that and what he has said today does not confirm that. The minister was caught out not telling the truth about an inquiry into babies who have died or suffered birth defects at King Edward Memorial Hospital for Women. What more fundamentally important issue could face a Minister for Health? He then came into this House and did not tell the truth. He has now been exposed; perhaps by his own stupidity.

Why did the minister stand in this House and try to pretend that the inquiry is about service delivery at King Edward Memorial Hospital and then tell the opposite to a journalist outside this place? The issue was front-page news because the minister had said two completely different things. An article in today's *The West Australian* under the heading "Hospital probe on baby deaths", which he refused to admit in this House two days ago, states -

> Health Minister John Day confirmed yesterday that outside medical experts would investigate whether any staff at King Edward Memorial Hospital were responsible for any adverse events.

That is not what he told the House two days ago. The article continues -

> Adverse events could include deaths or deformities of babies, Mr Day said.

Why did the minister not come into this House - to which he is supposed to be accountable - and tell the truth? If there is a problem, the minister should get members from both sides of the House cooperating to ensure that that great institution is promoted, that the right thing is done and that any problem is properly addressed. The minute the minister starts playing politics with this very important issue of the deaths and deformities of babies -

Mr Day: I am not playing politics.

Mr McGINTY: The minister did not tell the truth.

Dr Gallop: It is a cover-up.

Mr McGINTY: It has been a cover-up by the minister from beginning to end. This cover-up goes back to February. What was the inquiry about as announced in *The West Australian* on 10 February? It was about service delivery needing tightening up. A good example was given, not about deaths of babies, birth defects, medical negligence and tampering with hospital records - all of which are the gravest of matters and in response to which the minister should have acted far more diligently and purposefully -

Mr Day: Who are you quoting?

Mr McGINTY: I am quoting the chief executive officer of the hospital, whom the minister has not corrected.

Mr Day: You are not quoting me.

Mr McGINTY: The minister is quoted in *The West Australian* of 10 February as saying -

> "I don't realistically see why someone who has a low-risk birth from Armadale needs to come here."

That is, to King Edward Memorial Hospital -

> "We should be able to provide the same level of service at Armadale."

That was the example provided to try to con people into believing that there was nothing really wrong at King Edward Memorial Hospital.

The inquiry was not about that: It was about medical negligence. It was about people covering up, tampering with hospital records, involvement of the Crown Law Department because complete records were not available, and negotiating with grieving mothers about the loss of their babies. The aim was to make sure that they were paid less compensation than they would otherwise have received had all the information been available.

Mr Day: The formal inquiry might be about that.

Mr McGINTY: The minister knows that is the case. A case against the King Edward Memorial Hospital was concluded yesterday. That case was about the hospital having inadequate records about a woman who went to the fertility clinic at the hospital and received substandard care. She was then admitted to the hospital, but consultants did not turn up to deal with her properly and there was medical malpractice. That is why she is suing the minister, as the person responsible. As a result of those incidents, she is now crippled and has suffered a major crisis. The minister knows as well as I do that the Government will end up paying out a significant amount of money. That is an example of medical malpractice.

We are referring to unbelievably reprehensible behaviour designed to frustrate claims for compensation from grieving mothers who have lost their babies or who have had deformed babies. Nothing could be more serious than that, but the minister tells us not to worry about that, and that this inquiry is really about how best to deliver services. The minister did not have the guts to tell the truth, and he then realised the heat was on because people knew what was going on at the hospital. He then gave a journalist a story fundamentally different from the one he told this House. That is why we are censuring him. The parliamentary system holds him accountable to this House. He deliberately did not tell the truth, and he stands condemned.

As part of this process, the minister was asked to table the King Edward Memorial Hospital for Women's procedural protocol for dealing with adverse incidents. He has told us that last August the CEO of the hospital issued a directive that

he be notified of any deaths or any birth defects at the hospital arising out of medical negligence. Why the hell was that procedure not in place? It is fundamental that the person running such an institution would, as a matter of course, be notified of such an incident. The minister knows that the flimsy outline of a procedure for dealing with these situations at the hospital is totally inadequate. Why do we need an inquiry to tell us what is so patently obvious?

The minister has a grave problem. I understand that a doctor undertook a preliminary review late last year. He has told the minister that there are grave problems. He has legal advice which indicates that grave legal issues are at stake. Crown Law talked him out of doing the right thing because it has an interest in it. Crown Law talked the minister out of holding a section 9 inquiry under the Hospitals and Health Services Act, because he is a weak and vacillating minister. He did not do the right thing. Why did Crown Law try to talk him out of it? Because Crown Law is complicit in this.

Mr Prince: You just accused Crown Law of having some sort of pecuniary interest in not pursuing this.

Mr McGINTY: No, I said nothing of the sort. Crown Law has taken part in negotiating these settlements with grieving mothers who have deformed children and whose babies have died as a result of medical negligence at the hospital. The minister knows that, unfortunately, medical records at the hospital were tampered with in order to minimise claims and to defeat some claims which were made against the hospital by victims of medical negligence and the inadequacy of hospital procedures. That is what occurred.

Mr Prince: You just went over the top. You accused Crown Law.

Mr McGINTY: No, I did not.

Mr Prince: What is your accusation against Crown Law?

Mr McGINTY: Crown Law was involved in negotiating these compensation payments when writs were issued against the hospital. When the records at the hospital were inadequate and obviously tampered with, it negotiated with the parents in order to minimise the amount of compensation.

Mr Prince: What are you saying?

Mr McGINTY: I am saying exactly what the Minister for Police heard me say.

Mr Prince: Crown Law is at fault.

Mr McGINTY: Crown Law then talked this weak and vacillating minster out of holding a proper section 9 inquiry. He knows that he will be forced to hold a proper inquiry. He will be required to appoint a judicial officer to conduct a judicial inquiry, which will have all the powers of a royal commission, into this scandal at King Edward Memorial Hospital for Women. A classic example of it finished in the District Court yesterday. All of those issues were involved in that case. The reason the Kula case could not be made before now was due to the inadequate records of the hospital.

Mr Prince: Was it in a public court and publicly reported?

Mr McGINTY: Yes.

Mr Prince: Where is the cover-up?

Mr McGINTY: A problem at King Edward Memorial Hospital was amply illustrated in this case. The minister, whose first reaction was to hold a section 9 inquiry, was talked out of it.

Mr Day: When was it demonstrated - yesterday?

Mr McGINTY: The minister knows as well as I do, because the advice he has been given about the Kula case is that he will be found liable at the end of the day. He will be involved in a massive payment to this woman who was mistreated at King Edward Memorial Hospital. One of the problems was that it occurred over a number of years and it was due to the inadequacy of the records kept by the hospital. That is a classic case of what this is all about, and it has occurred many times. The minister tries to tell us that it is about service delivery. The minister stands to be condemned for not telling the truth. He did not want to let us know the full procedures. I had to ask him to table a list of the procedures at King Edward Memorial Hospital which deal with adverse incidents for one simple reason: He was embarrassed by them, as he should have been. Last August the chief executive officer said that the hospital should have a new system in which he, as the CEO, must be told when someone dies as a result of medical negligence. What a disgrace! People in senior positions who are associated with this have a lot to answer for, and it starts with the Minister for Health. That is why we have moved this censure motion on the minister today. He has turned his back on his responsibilities in this matter. He has treated these important issues of deaths and birth defects at the hospital as a trivial matter. He should have stuck by his guns and had a proper inquiry. If he had been up front, he would have had the community behind him. He is now properly accused of covering up something which will become a disgrace and which does him no credit whatsoever.

MR PRINCE (Albany - Minister for Police) [3.43 pm]: The member for Fremantle simply cannot help himself. In order to claim a political scalp, he goes over the top again and his viciousness completely overcomes any form of logic. What interest can the Crown Law department have in trying to prevent people from bringing actions and in trying to negotiate settlements that are not sufficient? We know, as we have always known, that in hospitals, particularly the large teaching ones such as King Edward Memorial Hospital and Royal Perth Hospital which deal with difficult cases, a certain proportion of cases will be dealt with badly; some cases will have bad results; and there will be medical negligence, because people

are not perfect. Nobody is perfect and these things happen, even in the best regulated places. Those responsible try to learn from every one of those cases and they change the processes so they do not happen again. However, they do happen and when they happen, they are dealt with properly.

Mr McGinty: Are they? That is the problem; they are not.

Mr PRINCE: It is essential and necessary that there be an identification that something has been done wrongly; in other words, it was done wrongly, it could have been done better, and the people concerned know that. That is what the member is talking about with medical negligence. What happened in this case? People within King Edward Memorial Hospital reported things that disturbed them. They did so and it was appropriate and, furthermore, they should have been encouraged to do it. Then a lawyer, who deals with these cases, also said that something disturbed her. What happened? The CEO acted promptly, other procedures were put in place and, among other things, people who have no connection with the hospital and who could not be accused of being biased in any way were brought in to look at what happened. That led to the present review which brought in people from New South Wales and South Australia - one a leading obstetrician-gynaecologist and the other the lecturer in midwifery at the School of Nursing - to determine whether something must be looked at from a procedure and practice point of view and also to look at what happened in individual cases. I will not go through the details because they have already been covered. At the same time, public servants and others from the Crown Law department, not a legal officer at the hospital, are advising the minister about what can be done according to the laws that are written by this Parliament; moreover, they make recommendations about what should be done as a matter of process.

Mr McGinty: A legal officer at the hospital gave that advice. You are wrong.

Mr PRINCE: I know that a legal officer at the hospital gave initial advice. However, Crown Law came in after that and it was informed. The member for Fremantle has defamed Crown Law and he has said that it is somehow dealing unprofessionally and improperly with this area of compensation for negligence at King Edward Memorial Hospital. That is an extraordinary accusation.

Mr McGinty: They are your words, not mine.

Mr PRINCE: That is what the member said. It is the most extraordinary thing he has said since question time.

Mr McGinty: They are your words and you are building a straw man. You are saying it, not me.

Mr PRINCE: The minister is following the recommendations by bringing in people from across Australia, who have nothing to do with the hospital, to look at it from a legal point of view. Cases are being heard in a public court, where they are open to scrutiny, report and analysis; yet the member says that this is a cover-up. Goodness me! What sort of conspiracy theorist background does the member come from, or is this another case of the end justifies the means, which is the only thing that ever motivates the member? The member for Fremantle will be the next Leader of the Opposition because there is no way he will let the current Leader of the Opposition sit there come the next election. That is what this is all about.

Mr McGinty: Will you defend his answer to the Parliament of two day's ago?

Mr PRINCE: I will defend him because he has been following the proper process and advice from people who know far better than the member for Fremantle.

Mr McGinty: You are as dishonest as he is! If you want to defend the indefensible, stand up for him. Everyone else can see right through him. Go back to acting school!

Mr PRINCE: The Minister for Health is motivated by having the best process, procedure and results for all of the people who go to King Edward Memorial Hospital and he relies upon professionals, not upon the twisted contortions of a mind like the member's.

MR COURT (Nedlands - Premier) [3.48 pm]: We certainly do not support the censure of the minister because he is a very decent, professional, competent minister who has been completely open about this matter. Child care is a priority, and this Government will ensure that no stone is left unturned to guarantee that all inquiries are carried out properly and the quality of service that is provided in our public hospitals is second to none in this country. The minister has received advice from legal and health care professionals. The recommendation was that an independent review be undertaken. That is currently under way, and it will report shortly. That review will examine the clinical systems and processes at the hospital. People have been brought in from outside the State to carry out that review. The minister has said that he will take the recommendations from that review on how the matter be progressed further.

I find quite unpleasant the way in which the member for Fremantle loves to call members of this House dishonest and to say they do not tell the truth. If I had half an hour, I would like to outline a few of the things that the member for Fremantle has said in the House in the last week in which he has not told the truth in relation to matters. I will do that at an appropriate time. The words of the member for Fremantle were, "Crown Law talked the minister out of a section 9 inquiry."

Mr McGinty: They did. The minister said that is what he wanted to do and he did not do it.

Mr COURT: The member for Fremantle is implying that Crown Law has given improper advice to the minister.

Mr McGinty: They are your words, Premier.

Mr COURT: No, we will use the words of the member for Fremantle. He said that Crown Law talked the minister out of a section 9 inquiry.

Mr McGinty: Get your mind around the facts.

Mr Court: Is the member for Fremantle saying that their advice was not right?

Mr McGinty: They talked your weak minister out of what he should have done. The decision made by your minister was a bad one.

Mr COURT: No. Was it good or bad advice they gave?

Mr McGinty: The Premier resorts to personal attacks again. He should get up out of the gutter and deal with the issues.

Mr COURT: The member for Fremantle will not answer the question: Was it good advice or bad advice?

I have sat in this House while the member for Fremantle has accused my brother of being a criminal and a gangster.

Mr McGinty: Tell the truth yourself now. Did I call your brother a criminal? No.

Mr COURT: Yes, and a gangster.

Mr McGinty: I said that the people at MFA were behaving like a group of gangsters. I have never said that of your brother. The Premier keeps making this up and continuing the lie about what I have said. I have not said that. The Premier should get it right. If you are going to make a contribution to the debate, get your facts right.

Mr COURT: As long as I am in this Parliament I will not use the tactics that the member for Fremantle has used in this House over many years. He has accused the Minister for the Environment of being corrupt, and left that hanging over her head for several years before she was cleared of the member's personal attack. The member's personal attacks are the pits.

The minister has handled this issue in a very proper and professional way and will continue to do so. The Government does not support this censure motion.

MS McHALE (Thornlie) [3.53 pm]: I want to make a few concluding remarks prompted in part by what the Minister for Health has said and in part by what the Premier has said. I will bring this back to the issues of death and birth defects of babies, of women and their partners who have had to suffer the tragedies of having unexpected, unexplained deaths, and of allegations of tampering with files. These women's questions are left unanswered. They have been left feeling that their voices are not being heard and they have no mechanism to deal with the complaints that have been made both within the hospital and externally. Let us bring this debate back to what it is about, which is birth defects and deaths.

The minister in his response was not able to justify the lack of truth in his answer on Tuesday. No amount of scrutiny of the words on the pages of *Hansard* will confirm that this minister talked about the real point of this inquiry. He skirted around it by using words such as "access to services", "adequacy of resources" and so on. He did not come into this Chamber on Tuesday and tell us the truth about the inquiry. He did not tell us that this inquiry is about investigation into clinical cases, as he has subsequently said and as the terms of reference have indicated. The truth of this inquiry is far from what the minister said on Tuesday. The minister did not tell the truth on Tuesday and he has not been answer to sustain that.

This is not an independent review, it is an internal review. From the minister's responses we now know that there have been layer after layer of complaints about this matter: Verbal complaints in March and in July and written complaints in October. Legal advice was obtained some time around October, and clinical advice from an external surgeon and interstate legal advice all confirmed the same message, that there needs to be a proper inquiry. Had those concerns not been raised then, perhaps an internal review might be appropriate, but they were raised and we have layers upon layers of concerns. To hold an internal inquiry without any power is totally inappropriate. The minister has not answered the claims before him. He has not explained why he did not tell the truth. For those reasons the censure motion remains and the minister should be condemned.

Question put and a division taken with the following result -

Ayes (16)

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

Noes (24)

Mr Ainsworth	Dr Constable	Mr Kierath	Mr Pendal
Mr Barnett	Mr Court	Mr Masters	Mr Prince
Mr Barron-Sullivan	Mr Cowan	Mr McNee	Mr Shave
Mr Bloffwitch	Mr Day	Mr Minson	Mr Trenorden
Mr Board	Mr House	Mr Nicholls	Mr Wiese
Mr Bradshaw	Mr Johnson	Mrs Parker	Mr Tubby *(Teller)*

Pairs

Mr Riebeling	Mrs Holmes
Mrs Roberts	Mrs Edwardes

Question thus negatived.

PLANNING APPEALS BILL 1999

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 11: Report by Assessor mediating an appeal -

Debate was adjourned after the following amendment had been moved by Mr Kierath -

Page 7, line 24 - To delete "on the outcome of the mediation of an appeal." and substitute the following -

stating whether, or to what extent, the mediation of the appeal was successful.

And after the Acting Speaker (Ms Anwyl) had proposed as a test vote the following -

Page 7, line 24 - To delete "on the outcome of the mediation of an".

Ms MacTIERNAN: The issue at the heart of the debate of the minister's amendment and the amendment I have foreshadowed is the way in which a mediation report is prepared and the potential that report has to prejudice the final determination of the appeal. We have said time and again that the principle at stake is that mediation should be on a without prejudice basis. It is not possible to have such mediation if a report is made that includes any report on what might be considered bad or non-compliant behaviour by one of the parties and forwarded to the director for consideration as part of the appeal process. It is a nonsense. The minister claims he has accepted this argument and has proposed an amendment to deal with that problem. The proposed words go nowhere towards dealing with it. The explanatory notes recognise the need for what we have been arguing for. The notes state that the reason for the change is to protect the parties in a mediation hearing from the disclosure of any matters which might be prejudicial to a further investigation of the appeal, if a mediation is not successful. In the explanatory notes, the minister recognises there is a problem, which is what we have been arguing. There is absolutely no way that the words that are proposed deal with that problem, because a report will still be made and will include whether the appeal was partly or wholly successful. The report will continue to contain information on the supposed non-compliance of parties, while it is regarded within the principle of mediation. The Western Australian Municipal Association said that the provisions in the clause are compounded by subclause (2), which stipulates that the assessor must report to the director on the outcome of the mediation, including any details of failure by a party to comply with the assessor's requirements. The association pointed out that the provision does not indicate when the assessor's report is to be provided and therefore it is possible it would be provided to the director before a final decision is made on the merits of the appeal. This is contrary to the established principles of mediation, which require that nothing said or done by the parties during the mediation should affect, or be seen to affect, a decision on the appeal if the mediation is not successful. Such mediation principles ensure that parties engage in a full and frank disclosure of arguments and proposals without fear that any disclosures may prejudice them at a later stage. WAMA said that as clause 11 currently stands, the position taken by a party at mediation may be held against that party at any subsequent hearing or decision-making process.

WAMA also referred to the Supreme Court's process, saying that the registrar who conducts the mediation may report to the trial judge, mentioning behaviour by any party that was considered counterproductive during the mediation. However, the judge will not read the report until after the case has been heard to ensure that the decision on the merits is unaffected by the mediation report. The report is used only for the question of costs. The problem is quite clear. A mediation report of the type the minister is proposing, especially one including a section on non-compliance, has the capacity to prejudice deliberations on the merits of the case. The form of words the minister has proposed does nothing whatsoever to alter that problem. In contrast, the amendment I have foreshadowed resolves the problem because when a matter is not disposed of at the mediation stage and goes through to be considered on its merits, the report will not be referred to until afterwards.

Mr KIERATH: I will read to the member for Armadale the response I gave to the Western Australian Municipal Association over its concerns on this issue. Hopefully, that might explain part of it. However, I accidentally misled the House when I said I received a letter from WAMA in December. I confused that with a briefing note I received in December as a result of a meeting we had in late November. I correct the record and say that WAMA first raised its issue in a letter 31 May 1999. In that letter WAMA wrote that it supports both the effort being made to improve the operation of the town planning appeals process in Western Australia and the general thrust of the Bill in bringing about some of much-needed changes. The member for Armadale seems to have overlooked that at various times. As a result of WAMA's concerns, the Government had meetings with the authority on 20 May 1999, 16 June 1999, 5 August 1999 and 18 November 1999. At no time during those meetings did WAMA indicate to us that the Bill had any fatal flaws. The Government has received a few letters from WAMA, the most recent on 16 August. Again, at no time was it suggested that the Bill had a fatal flaw or should be withdrawn. As a number of letters were received and meetings held with WAMA, a comprehensive response was prepared, addressing all its concerns and outlining the Government's position.

Ms MacTiernan: Will you table the letter of August sent after the resolution?

Mr KIERATH: Obviously, the member was not listening. I said that in none of the letters was there a suggestion of a fatal flaw. At all the meetings with, and in letters from the Western Australian Municipal Association, it has suggested broad support for the general thrust of the Bill and that the Bill brings about much needed changes. I will place on the record my answer to WAMA with regard to clause 11. I wrote that the association again emphasised the matter of the report of the assessor and whether it might contain comment on any vexatious, frivolous or unreasonable behaviour. The concern was expressed that the report on that behaviour may precede a report on the merits of an appeal. The Crown Solicitor has already advised, and this could be incorporated into administrative instruction, that such an order of reporting should not occur as it may be construed that a determination of the appeal may be predicated on that behavioural matter, rather than on the merits of the proposal. It is open for the awarding of costs to occur after the appeal is heard and determined, and I see no reason why that should not be a pattern of administrative conduct which would allow the appeal to be determined impartially, and for the awarding of costs to be reserved for subsequent action. The amendment to clause 11 is an endeavour to eliminate any suggestion that the mediator's report will contain information about the issues discussed at the mediation hearing where the mediation was not successful. The wording of the clause is to be changed so as to delete reference to the outcome of the mediation on an appeal and to include reference to a report stating whether or to what extent the mediation of the appeal was successful. This would ensure consistency with the principles of mediation.

That answers the question and it is what the member has been after. I wanted to put that on the record so that it is there for other people to read. I have answered all the issues raised by the Opposition.

Ms MacTIERNAN: It is most amusing that the minister quoted a letter from WAMA dated May 1999, in response to a resolution unanimously passed by the state council of WAMA in August 1999. The minister said that much had moved on since August 1999, but to prove that he could resort only to a letter dated May 1999. I suggest that the motion I read out, which was highly critical of the legislation, must on any account be taken as a more accurate reflection of WAMA's position than a letter the minister received in May.

Mr Kierath: I had a meeting with them on 18 November - the people at the Table were there - and WAMA did not indicate any fatal flaws in the legislation. It ran the same line it has always run of broad support with some concerns in certain areas.

Ms MacTIERNAN: I had meetings with them in December and January, and had a very different impression and reportage from them. The minister must accept that there is no way the words he has introduced in any way change the fundamental problem. In that letter - those weasel words contained in the letter the minister sent to WAMA - the minister has acknowledged there is a problem, but said it could be dealt with by way of administrative instruction. He has acknowledged that these reports, including adverse comments on non-compliance during the mediation process, should not be in the hands of the director prior to the determination on the merits. That is what the administrative instruction is about.

Mr Kierath: It is a very rare occurrence. I have said our advice is that it can be done by administrative instruction.

Ms MacTIERNAN: That is nonsense; it not a very rare occurrence. The minister is asking the Parliament to pass the legislation on the basis that he may fix up inherent structural problems by way of administrative instructions.

Mr Kierath: It is also on the record for interpretation purposes.

Ms MacTIERNAN: I will give the minister the principles of that.

Mr Kierath: I do not need a lecture on that.

Ms MacTIERNAN: I think the minister does. The important principle is that reference is made to the parliamentary debate when there is some ambiguity; there is no ambiguity in this case. Nothing prevents this report going up, and the minister does not intend the words to prevent the report going up.

Mr Kierath: Our advice is different from the advice you have received, and I prefer our advice to yours.

Ms MacTIERNAN: The minister is relying on the promise of an administrative instruction to deal with a fundamental issue raised in the Bill. That is appalling.

Mr Kierath: It is very rare for someone to engage in that sort of behaviour. We have never awarded costs against anyone.

Ms MacTIERNAN: It is not just about costs.

Mr Kierath: We have not had that sort of behaviour. It is a rare occurrence and it has not occurred until now under the ministerial appeal system.

Ms MacTIERNAN: The minister should not be ridiculous. He has only just introduced the mediation process and, what is more, in that process he does not have the power to compel people to produce documents.

Mr Kierath: Under the current ministerial appeals system we have that power, and I have gone close to it. On one occasion I threatened to ask for costs because of the actions of a particular party. It is a very rare occurrence under an adversarial system, and will be even more rare under a mediation system.

Ms MacTIERNAN: This is not an issue about costs, it is about an adverse report on a person's performance in mediation affecting the appeal on its merit. We have no problem with the report being taken into account in making a determination on the costs; that is perfectly appropriate. However, it should not be reported prior to the determination of the matter on the merits. It simply will not work.

Amendment (words to be deleted) put and passed.

The ACTING SPEAKER (Mr Masters): All the words before the word "appeal" have been deleted, and the question now is that the word "appeal" be deleted.

Ms MacTIERNAN: For the reasons stated, the Opposition opposes this amendment. It is an absolute farce which does nothing to improve the situation within the legislation.

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

Ayes (26)

Mr Ainsworth	Dr Constable	Mr MacLean	Mr Pendal
Mr Baker	Mr Cowan	Mr Marshall	Mr Prince
Mr Barnett	Mr Day	Mr McNee	Mr Shave
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Mr Trenorden
Mr Bloffwitch	Mr House	Mr Nicholls	Mr Wiese
Mr Board	Mr Johnson	Mrs Parker	Mr Tubby *(Teller)*
Mr Bradshaw	Mr Kierath		

Noes (14)

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

Pairs

Mrs Holmes	Mr Riebeling
Mrs Edwardes	Mrs Roberts
Dr Hames	Dr Gallop
Mr Court	Ms McHale

Amendment thus passed.

Amendment (words to be substituted) put and passed.

Clause, as amended, put and passed.

Clause 12: Director to review agreement -

Ms MacTIERNAN: What is the purpose of giving the director the power to review any agreement that has been made during the mediation process? We have spent the day talking about how important it is to drag people kicking and screaming into mediation and to give the mediating body a raft of powers to beat people around the head and make them behave themselves during the mediation process. We now have a contrary provision that will enable the director to throw out an agreement. What does the minister have in mind here?

Mr KIERATH: Obviously an agreement cannot go beyond the powers that are given in this Bill or beyond the scope of law. A town planning scheme may have certain restrictions, and the parties may agree to a certain course of action that is prohibited under that town planning scheme.

Ms MacTiernan: In other words, the sort of thing the Minister for Planning might do.

Mr KIERATH: I am trying to be very serious and sincere. I do not think that comment was either of those two, but I accept that the member has the right to make whatever comment she wants. It is generally a watching brief to ensure that an agreement does not breach well established planning principles. It is as simple as that. It is a check to ensure that an agreement conforms with all known requirements.

Mr KOBELKE: I accept that the minister's comments have substance and that we do not want agreements to be made that are outside the powers that are given in this Bill or are in conflict with planning principles. However, I have a problem with the words "is otherwise inappropriate" in subclause (2)(b)(ii), which seem to go beyond that and give the director the power to make a value judgment and abort the whole mediation process if in his view the agreement is otherwise inappropriate.

Mr KIERATH: Subclause (3) provides that the registrar is to notify the parties of the director's decision and the reasons for that decision. That will have a sobering effect on any potential misuse of that power.

Ms MacTIERNAN: The member for Nollamara has, once again, raised a good point. The two sorts of situations that the minister has contemplated may lead to the need to overturn an agreement are, firstly, where the agreement does not conform with planning principles; and, secondly, where there has been some coercion of one party or another, which is quite likely given the minister's attitude towards legal representation. Can the minister outline what would cause an agreement to be otherwise inappropriate? It is hard to imagine a need for this catch-all phrase, given that there are two provisions, it does not conform with planning principles and one of the parties would have been coerced. What circumstances might not fall within those two headings but might render it inappropriate to concord with the agreement? In other words, on what basis

would the minister knock back the agreement when there is no coercion of the parties and the agreement does not conflict with proper planning principles?

Mr KIERATH: It could be non-compliance with other legislation of which the parties were unaware.

Clause put and passed.

Clause 13 put and passed.

Clause 14: Protection of statements made during mediation -

Ms MacTIERNAN: I am concerned about the contents of clause 14 and how the minister can reconcile it with clause 11. Clause 14 states that unless otherwise agreed by the parties, what occurs during an appeal is not admissible during an investigation nor in any matter before the court, with one exception.

The point the Opposition has made, and has attempted to make time and again, is that one provision of the Bill is in complete conflict with that principle. One provision provides for an assessor to report on the progress of the mediation and on the behaviour, in particular, of the various parties during that mediation; yet this clause states that the evidence is not admissible during an investigation. These two clauses will make it difficult practically to administer this legislation as it will be difficult for anyone to know how to handle them and what their contents will be because the two provisions are fundamentally at odds with each other.

Mr KIERATH: Obviously, the Government does not believe so, and its advice is to the contrary. I will refer to the explanatory memoranda, which are not part of the Bill, and touch on something else when I am finished.

The parties will be notified by the registrar that unsuccessfully mediated appeals have been referred for investigation. The matters discussed at mediation are considered confidential; therefore such issues are not admissible during an investigation process unless the parties agree. The only exception to that is if proceedings are to be taken for any false or misleading statements made under clause 46. It may be that different assessors would conduct the mediation and the investigation, unless the parties agree otherwise. Ordinarily, the assessors would not have access to that information.

Ms MacTiernan: What about the report that the mediator will be preparing and sending to the director?

Mr KIERATH: The director would have that report. The way the system currently operates is that someone conducts an investigation and their report goes to a panel of people. The director would sit on that panel in judgment of that report and may add something to the report. This clause would come into operation at that level.

Ms MacTiernan: Can the minister please explain that?

Mr KIERATH: An assessor would conduct the mediation. If the mediation is only partly successful, it will be reported.

Ms MacTiernan: No, the whole mediation must be reported.

Mr KIERATH: Yes, I just said that part would be reported. Another person would be appointed as an investigator who would then revisit all the issues and send a report to the panel. The director sitting on that panel obviously would have access to the first report.

Ms MacTiernan: That is the problem. At one level the minister is saying the material will not be admissible in the investigation; however, the material can be given directly to the director who sits on the panel and makes the final determination. What is the point of not allowing the assessor access to it when the director who is making the determination at the end of the day has access to it?

Mr KIERATH: It is so that it is more independent.

Ms MacTiernan: What is more independent?

Mr KIERATH: The person who conducts the investigation does it basically from scratch.

Ms MacTiernan: That is right, and that is an important principle, is it not?

Mr KIERATH: Yes.

Ms MacTiernan: Why does that principle not become even more important to the panel that actually makes the decision? Surely, if it is important for the investigators not to have access to this prejudicial information, it is even more important for the director not to have access to the prejudicial information as the director will make the decision.

Mr KIERATH: There is no prejudicial information, other than the conduct of the parties.

Ms MacTIERNAN: That is exactly the point. This matter is truly alarming. I cannot believe what I have just heard. I will repeat the minister's own explanatory notes. He said that the matters discussed at mediation are considered confidential, therefore issues are not admissible during the investigation process.

Mr Kierath: During the investigation.

Ms MacTIERNAN: That is right, but why would that be?

Mr Kierath: It is during the investigation process, not the decision-making process.

Ms MacTIERNAN: We do not want an investigation prejudiced by what has gone on in mediation. The whole principle of mediation is for parties to say, "All bets are off, let's go into the room and have a full and frank discussion to see what we can come up with." The minister acknowledges that notion in this clause. Therefore, the assessor, in this clause, will not have access to any of that prejudicial information. However, at the next level of the process, a different person, the director who will make the final decision, can have access to that prejudicial information. The information is not available during the investigation but it is available when making a decision; that is absolute madness. I do not know who is giving the minister his legal advice nor the credentials of the people giving him that advice but it is appalling and complete and utter nonsense. Anyone who gives a moment's thought to it will see that the minister is taking a completely contradictory stance. It is - I was about to use a non-parliamentary phrase but I will use a nicer phrase - back to front. It is far more important that the panel, rather than the assessor, does not have access to the prejudicial information. We do not object to this provision but -

Mr Kierath: I did say that, although the information would go to the director by administrative instruction, it would be unavailable until after the panel had made a decision. It would be available only if the panel were looking at awarding costs or making an order against the behaviour of a party. The information will be unavailable to the panel but will be available to the director after the decision has been made.

Ms MacTIERNAN: However, there are no guarantees.

Mr Kierath: I am sorry, I was trying to help the member. I did not realise it was going to trigger her off on another angle again.

Ms MacTIERNAN: It is not triggering me off on another angle. I am just pointing out the absurdity of the contentions made by the minister. The minister has acknowledged that it is important to have a provision in the Bill that prevents the investigators having access to this information. A whole clause deals with it. Earlier on I moved an amendment that would have done what the minister's amendment seeks to do by administrative instruction.

Mr Kierath: What are you arguing about then?

Ms MacTIERNAN: The minister would not accept our amendment. He said it was a valid point and the director should not see it, but the Government will not include it in the legislation and will deal with it by way of administrative instruction. It does not make sense. If it is an important issue - and this is an important issue - why did he not support our provision? He acknowledged that and included a provision to say the investigators could not have the information.

Mr Kierath: Because we had it covered.

Ms MacTIERNAN: The minister admitted he did not have the matter covered and that he would have to deal with it by administrative instruction. The situation is stupid. There must be some give and take in this process. The minister is not prepared to accept any amendments.

Mr Kierath: You have your opinions. If you read your comments in the debate today, you will be fascinated.

Ms MacTIERNAN: Why would I be fascinated?

Mr Kierath: If you read them, I will have a discussion with you afterwards.

Ms MacTIERNAN: That sounds intriguing. Can the minister give me a few more clues about that?

Mr Kierath: You are going around in circles.

Ms MacTIERNAN: We are not going around in circles. We are trying to penetrate the fog of ambiguity and misunderstanding we see emanating from the Table. We are pointing out that the minister's stance is contradictory and does not make sense.

Clause put and passed.

Clause 15: Assignment to an Assessor -

Ms MacTIERNAN: I move -

> Page 9, line 22 - To insert after the word "agree" the following -
>
> > provided that the parties prior to so agreeing have been advised that they may wish to take legal advice in relation to the matter

We are contemplating an unusual situation in allowing the person who conducts the mediation to then become the investigator and assessor of the actual claim. On the basis of first principles we have a mediation in which there is a full and frank discussion in which supposedly all the comments are made without prejudice to the subsequent investigation and determination. However, this amendment will allow the person conducting the mediation which proved to be unsuccessful to then deal with the investigation. That is unorthodox in notions of any other tribunal. However, I am prepared to concede that there may be times when such a mediator has the confidence of the parties to the dispute and that they are happy, even desirous, of having that person continue.

Our first instinct was to oppose the clause. However, we acknowledge that there may be situations in which the parties

believe it is in their interests to have the mediator continue because he has a certain familiarity with the case, and agreement is reached to allow that person to go forward. We will not move to try to stop that. However, the amendment is an attempt to include a little bit of protection.

As has been pointed out, an assessor who has mediated an appeal cannot investigate unless the parties agree. There is no as-of-right in this legislation; people can be legally represented only on the determination of the assessor. Therefore, many people will not be legally represented in these proceedings and they may not understand the issues of bias and prejudgment on matters which may not be disclosed to an investigator, but which have been disclosed on mediation. Our concern is that because most people will not be legally represented, there will be a very real problem with their being aware of any difficulty that may arise in allowing this highly unusual step of a mediator who has had access to all that prejudicial information to then become the investigator. Although we worded the amendment as modestly as possible because we do not want to needlessly incur the cost of legal representation, we are suggesting that something like the Miranda rules whereby police officers advise people who are about to be charged -

Mr KOBELKE: I definitely wish to hear more comments from the member for Armadale.

Ms MacTIERNAN: The police read people their rights and advise them that anything they say can be taken down in evidence and they have the right to seek legal advice, etc. We are saying that because what we are contemplating here is such an unusual step and has a number of dangers associated with it, although we can see occasions may arise when it will have benefits, we should balance that out and make it a precondition for the person agreeing to this; that it has been brought to their attention that they may wish to seek legal advice before entering into an agreement that allows the mediator to become the investigating assessor.

That is a modest requirement. It will not add anything to the cost of the situation. However, it will simply alert parties that what is being proposed is unusual and that there may be some dangers in it for them. It could not be expressed more moderately. We are trying to give effect to the minister's desire to allow mediators to become assessors, and this is the base minimum of a protection we can provide with such a provision.

Mr KIERATH: The proposed amendment, along with many others, will do exactly the opposite of what is claimed by the member for Armadale. She wants to move away from an informal mediation system to one which is much more formalised, has prescriptive procedures and is legalistic. This would be counterproductive to the thrust of the Bill. When the Government introduced mediation, I was surprised that on 20 or 30 occasions parties have formed an element of faith with the mediator and have been more than happy - some requested it - that the mediator continue the appeal as the investigator. I do not want prescriptive procedures to frighten people off so they retreat to legal advice. We want people to agree. People may not agree on the matter in question, but they may develop some faith in the mediator to become the investigator. This amendment is not required.

Mr McGOWAN: I support the member for Armadale. The minister said a moment ago that the amendment would make the clause excessively bureaucratic and legalistic. The member for Armadale suggests that the parties merely be advised that they have the opportunity to seek legal advice, and that this may be in their interests. Maybe I would agree with the minister if the provision stipulated that parties must seek legal advice, must have their lawyer present or some other compulsory activity involving lawyers were to be involved. However, the amendment is benign. The notion applies already in many areas, as outlined by the member for Armadale, as well as in areas subject to charges. I am familiar with some situations with marital breakdown in which people are required to undertake certain activities. Although that is not strictly an analogous situation, it is not unusual in law to require people to be advised of their rights. If we do not advise people, more legal action could be prompted in the future. I am cognisant of cases relating to undue influence in which parties who were not advised of their rights have brought legal action against other parties. The Amadio v the Commonwealth Bank case in 1983 springs to mind. If one fails to give people advice, one can create more problems down the track, particularly in view of the way courts make interpretations these days. I implore the minister to have another look at the moderate suggestion by the member for Armadale.

Ms MacTIERNAN: I am stunned by the response of the minister. He said that we were trying to bring lawyers into the mediation process -

Mr Kierath: I did not say that.

Ms MacTIERNAN: It was something along those lines.

Mr Kierath: I said it was putting more procedures in place or being more legalistic.

Ms MacTIERNAN: Unbelievable! This is the man who introduced for the first time in mediation processes provisions that compel a person to answer questions and produce documents. It is unbelievable that the minister accuses us of playing up with the mediation process. The real point - not only the minister's contradiction - is that this process would kick in once the mediation process is over and has failed and how to move forward is being determined. It would be out of the mediation phase. The amendment does not say that a person must get legal advice. This minimum protection will ensure that the many hundreds of people who will be unrepresented and probably have little knowledge of legal procedures will be made aware of the potentially prejudicial nature of having the mediator also becoming the assessor. It is pretty simple stuff. It is not a big deal. The Opposition supports the minister in allowing this unusual development, and wants one modicum of protection so people are at least put on alert that some complexity may arise. Imagine this notion applying in the criminal world.

Mr Kierath: It is not a criminal procedure.

Ms MacTIERNAN: Yes, but it is the same sort of thing. Imagine if someone spoke to his lawyer, being frank in a non-prejudicial environment, and said that he put a few stab wounds into a bloke last night, and then the lawyer became the prosecuting investigator. It is that stupid. The Labor Party concedes that sometimes people will be happy with that arrangement of the mediator becoming the investigator; it is not trying to stop that. It simply wants to ensure modest advice is given to raise the red light; therefore, people will be alerted to the prejudicial nature of such a development.

Amendment put and negatived.

Mr KIERATH: I move -

Page 10, line 3 - To delete *"Heritage Act 1999"* and substitute *"Heritage of Western Australia Act 1990"*.

Amendment put and passed.

Ms MacTIERNAN: Why is the minister using different terminology? The director is to assign at least three assessors, including one who is a legal practitioner, to investigate an appeal under the heritage Act. Clause 39(3)(c) considers the appointment of assessors and uses different terminology. It refers to a person certified as a practitioner for the purposes of the Legal Practitioners Act. Importantly, there is a danger in statutory interpretation if two different phrases are used in one piece of legislation as the interpretative presumption is that they mean different things. Does the minister mean something different? Is it other than a certified practitioner under the Legal Practitioners Act? If no, why not amend the provision to make the clauses consistent so that the rule of statutory interpretation will not kick in?

Mr KIERATH: It is intended to be the same thing. We will not consider the later clause today. I will provide an answer to the member.

Ms MacTiernan: This clause should be amended.

Mr KIERATH: I understand that. If the member wants to make an amendment, and the Government is happy to do so, no obstacle will prevent us revisiting the clause.

Ms MacTiernan: Did you intend it to be different?

Mr KIERATH: I did not do the drafting. We had no intention of wording the clause differently.

Ms MacTiernan: Why do we not simply deal with it now?

Mr KIERATH: Because I need that legal advice; I want to see what it is. Between the time we adjourn today and next week, when we return, I will have that answer.

Mr KOBELKE: I was certainly hoping that we could move through and conclude this clause. It may be better to leave it without concluding it and for the minister to come back with the advice next week. We could deal with it then because we would still be on this clause. The option is open to the minister to choose whichever way he wishes to go.

Mr KIERATH: It is a matter of procedure. We can deal with it. I would like to go with this, if we can, unless the Opposition has any strong objection.

Ms MacTiernan: I would prefer to have it dealt with. The problem is that the interpretation may be something different.

Mr KIERATH: If the advisers are right we will not need to change it. If they are wrong, as I said, if it needs to be reflective of the clause, we will come back to this clause.

Ms MacTiernan: When I suggest that we leave it open, we can deal with it if you come back with your legal advice.

Mr KIERATH: I would prefer to get it completed today.

Ms MacTiernan: I would rather have it sorted out.

Mr KIERATH: This is another one of the games the member is playing, I guess.

Ms MacTIERNAN: Another question has been raised about this provision. We understand why one of the three assessors of the Heritage Western Australia Act is to have legal expertise. Why is that not also true of planning appeals, and not only planning appeals but also a number of other appeals which will be considered and which will have equally complex legal issues to be determined? It seems odd to select the heritage Act as the only case in which it is necessary to have assessors, one of whom is legally qualified.

Mr KIERATH: This relates to assessors. Does the member want to know why we want a legal practitioner?

Ms MacTiernan: Why do you want it with the heritage Act and not with the other pieces of legislation, which may raise as many legally complex issues as the Heritage Act?

Mr KIERATH: The heritage people wanted somebody with specialist expertise in heritage because heritage expertise is not as widely disseminated as other expertise. I agree with the member that normally we would not do it, but I think it was done originally at the request of the heritage people.

Ms MacTiernan: That they have a legal practitioner?

Mr KIERATH: No. We have a legal practitioner and somebody who has expertise in heritage matters.

Ms MacTiernan: Why is it that in heritage appeals you have a legal practitioner but you do not have one in any of the other appeals?

Mr KIERATH: Because generally more complex legal issues crop up with the heritage Act. At the moment, half the lawyers in Perth cannot understand it.

Ms MacTiernan: You do not see that complex legal issues arise in the other legislative regimes?

Mr KIERATH: They do get complex issues but usually they are easy to resolve. The most complex are those relating to legal issues and heritage.

Ms MacTIERNAN: We want to have the provision relating to legal practitioners clarified. We would prefer that we do not extend the debate on this but we want the minister to come back before we resolve it. If it is not resolved, it is not appropriate to change it in the other place, because it is the better of two definitions.

Clause, as amended, put and passed.

Debate adjourned, on motion by Mr Kierath (Minister for Planning).

House adjourned at 5.05 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

RAILWAYS, SECURITY ON TRAINS

1144. Mrs ROBERTS to the Minister representing the Minister for Transport:

(1) What security is in place on trains after 7.00 pm each day?

(2) What security is in place on trains on Saturdays, Sundays and public holidays?

(3) What are the security staffing levels in total?

(4) How many staff are on each shift?

Mr COWAN replied:

The Hon Minister for Transport has provided the following response:

(1)-(2) Two special constables are rostered to ride each train on every suburban line after 7.00pm from Perth each evening.

(3) As at 7 March 2000, there are 112 Special Constables employed on the urban railway, of these 97 are employed directly on maintaining a security presence on the railway. The remaining cover supervisory work, court prosecutions, revenue protection duties, anti-graffiti duties, customer service and security on stations during the day and leave.

(4) I am not prepared to release this information through the Parliament for reasons of public security; however, I will provide the information to the member in writing.

GOVERNMENT DEPARTMENTS AND AGENCIES, REGIONAL PURCHASING COMPACT

1500. Mr BROWN to the Minister for Planning; Employment and Training; Heritage:

(1) Does the Government have a policy commitment towards ensuring that Government work in the regions is allocated in a way that provides the best economic advantage to the region?

(2) Does the Government endeavour to fulfil that commitment through its Regional Purchasing Compact?

(3) If not, in what way does the Government seek to fulfil that commitment?

(4) Does each department and agency under the Minister's control take steps to ensure that as much of the work it has in regional areas is allocated in the way which benefits such regional areas?

(5) Does each agency and department under the Minister's control strictly comply with the Regional Purchasing Compact and particularly the preference for regional businesses as provided for under that compact?

(6) Is the Minister aware of any cases where any department or agency under the Minister's control has not complied with the Regional Purchasing Compact?

(7) If so, what were the circumstances of that non-compliance?

(8) Are there any Government departments or agencies under the Minister's control that are exempt from the Regional Purchasing Compact, and if so why?

(9) Is it true that at least one or more of the departments or agencies under the Minister's control has not complied with the Regional Purchasing Compact when allocating a contract due to the additional costs of applying the preference arrangement?

Mr KIERATH replied:

(1)-(5) The Regional Buying Compact is a Government policy that all agency Chief Executives must implement within their purchasing and contracting activities. The Compact outlines the obligations on CEOs to comply with the objective of supporting regional economic development.

(6)-(7) The Government, through its agencies, awards many contracts throughout the State. If the member is aware of any case where the Compact has not been complied with, more specific details should be provided to the appropriate Minister.

(8) The Compact applies to all Government agencies.

(9) See question 6 and 7.

GOVERNMENT DEPARTMENTS AND AGENCIES, REGIONAL PURCHASING COMPACT

1506. Mr BROWN to the minister assisting the Treasurer:

(1) Does the Government have a policy commitment towards ensuring that Government work in the regions is allocated in a way that provides the best economic advantage to the region?

(2) Does the Government endeavour to fulfil that commitment through its Regional Purchasing Compact?

(3) If not, in what way does the Government seek to fulfil that commitment?

(4) Does each department and agency under the Minister's control take steps to ensure that as much of the work it has in regional areas is allocated in the way which benefits such regional areas?

(5) Does each agency and department under the Minister's control strictly comply with the Regional Purchasing Compact and particularly the preference for regional businesses as provided for under that compact?

(6) Is the Minister aware of any cases where any department or agency under the Minister's control has not complied with the Regional Purchasing Compact?

(7) If so, what were the circumstances of that non-compliance?

(8) Are there any Government departments or agencies under the Minister's control that are exempt from the Regional Purchasing Compact, and if so why?

(9) Is it true that at least one or more of the departments or agencies under the Minister's control has not complied with the Regional Purchasing Compact when allocating a contract due to the additional costs of applying the preference arrangement?

Mr KIERATH replied:

(1)-(5) The Regional Buying Compact is a Government policy that all agency Chief Executives must implement within their purchasing and contracting activities. The Compact outlines the obligations on CEOs to comply with the objective of supporting regional economic development.

(6)-(7) The Government, through its agencies, awards many contracts throughout the State. If the member is aware of any case where the Compact has not been complied with, more specific details should be provided to the appropriate Minister.

(8) The Compact applies to all Government agencies.

(9) See question 6 and 7.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONTRACTS AGGREGATED IN REGIONAL AREAS

1522. MR BROWN to the Minister for Planning; Employment and Training; Heritage:

(1) Since 1 July 1997, have there been any occasions when departments and agencies under the Minister's control have aggregated or bulked up Government contracts let for work to be carried out in regional Western Australia?

(2) Is it true that one or more departments or agencies under the Minister's control have preferred to aggregate or bulk up a number of smaller contracts into one larger contract for ease of administration or some other reason?

(3) If not, will the Minister advise if any department or agency under the Minister's control has aggregated or bulked up a number of smaller contracts to one large contract for administrative or other reasons?

(4) Is the Minister aware that some small regional based contractors have been unable to secure work as a consequence of only large contracts being let?

(5) What steps does the Minister intend to take to ensure that regionally based contractors are not excluded from obtaining Government work as a consequence of contracts being aggregated or bulked up?

(6) Will the Minister issue instructions to all departments under the Minister's control confirming that contracts are not to be bulked up or aggregated so that small business and small business contractors are not excluded (by virtue of size) from obtaining Government work in their region?

(7) If not, why not?

Mr KIERATH replied:

(1)-(4) Government, through its agencies, awards many contracts. The structure of contracts is a matter for agency Chief Executives, who are best placed to consider how to achieve their agency's outcomes efficiently and effectively. The Government's *Regional Buying Compact* illustrates our commitment to regional Western Australia by giving regional suppliers an enhanced opportunity to bid for government contracts. The company compels government agencies to give a level of financial preference to "local" suppliers in regional areas and educates those suppliers on how to take advantage of preferences available. Under the Government's Regional Buying Compact, agencies

have an obligation to consider the key principles of the Compact, which include matters dealing with competition, packaging of work, value for money, devolution and the social implications of their decisions. The matters raised by the member will need to be considered on a case-by-case basis, and if the member has a specific case, this can be examined by the responsible Minister. The State Supply Commission recently issued a note to all "CEOs", titled "Are You Doing Enough" to remind them of their obligations under the Compact and how best to achieve the Government's objectives. The Regional Buying Compact has a grievance process, which can be accessed by contractors who have concerns with the application of the Compact by agencies. These concerns should be directed to the State Supply Commission.

(5)-(6) The State Supply Commission is reviewing the effectiveness of the Regional Buying Compact. The Commission is developing a new policy to improve opportunities for regional suppliers to bid for government contracts which is designed to promote competitive local industry.

(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, CONTRACTS AGGREGATED IN REGIONAL AREAS

1528. MR BROWN to the minister assisting the Treasurer:

(1) Since 1 July 1997, have there been any occasions when departments and agencies under the Minister's control have aggregated or bulked up Government contracts let for work to be carried out in regional Western Australia?

(2) Is it true that one or more departments or agencies under the Minister's control have preferred to aggregate or bulk up a number of smaller contracts into one larger contract for ease of administration or some other reason?

(3) If not, will the Minister advise if any department or agency under the Minister's control has aggregated or bulked up a number of smaller contracts to one large contract for administrative or other reasons?

(4) Is the Minister aware that some small regional based contractors have been unable to secure work as a consequence of only large contracts being let?

(5) What steps does the Minister intend to take to ensure that regionally based contractors are not excluded from obtaining Government work as a consequence of contracts being aggregated or bulked up?

(6) Will the Minister issue instructions to all departments under the Minister's control confirming that contracts are not to be bulked up or aggregated so that small business and small business contractors are not excluded (by virtue of size) from obtaining Government work in their region?

(7) If not, why not?

Mr KIERATH replied:

(1)-(4) Government, through its agencies, awards many contracts. The structure of contracts is a matter for agency Chief Executives, who are best placed to consider how to achieve their agency's outcomes efficiently and effectively. The Government's *Regional Buying Compact* illustrates our commitment to regional Western Australia by giving regional suppliers an enhanced opportunity to bid for government contracts. The company compels government agencies to give a level of financial preference to "local" suppliers in regional areas and educates those suppliers on how to take advantage of preferences available. Under the Government's Regional Buying Compact, agencies have an obligation to consider the key principles of the Compact, which include matters dealing with competition, packaging of work, value for money, devolution and the social implications of their decisions. The matters raised by the member will need to be considered on a case-by-case basis, and if the member has a specific case, this can be examined by the responsible Minister. The State Supply Commission recently issued a note to all "CEOs", titled "Are You Doing Enough" to remind them of their obligations under the Compact and how best to achieve the Government's objectives. The Regional Buying Compact has a grievance process, which can be accessed by contractors who have concerns with the application of the Compact by agencies. These concerns should be directed to the State Supply Commission.

(5)-(6) The State Supply Commission is reviewing the effectiveness of the Regional Buying Compact. The Commission is developing a new policy to improve opportunities for regional suppliers to bid for government contracts which is designed to promote competitive local industry.

(7) Not applicable.

REGIONAL FOREST AGREEMENT, INDUSTRY STRUCTURAL ADJUSTMENT PROGRAMS

1566. Dr EDWARDS to the Treasurer:

(1) What extra money has been allocated towards industry structural adjustment programs as a result of the amended Regional Forest Agreement announced on 27 July 1999?

(2) How will this money be utilised?

Mr COURT replied:

(1) $6 million.

(2) $2 million is earmarked for restructuring assistance to industries in the areas affected by the RFA. $4 million has been earmarked for workers assistance which with the $38.5 million industry structural adjustment program will provide assistance for native hardwood sawmills and related businesses and their workers who are exiting the native forest timber industry as part of the structural adjustment.

MINISTERS OF THE CROWN, DECLARATION OF INTEREST IN OLD PERTH PORTS PROJECT

1580. Mr KOBELKE to the Premier:

(1) Has the Premier, at a Cabinet meeting or on any other occasion, declared an interest in the Old Perth Ports project at Barrack Square on the Swan River foreshore?

(2) If so, what were the dates of such declarations and what was the interest declared?

(3) Has any other Minister declared an interest in the Old Perth Ports project?

(4) If so, what was the date on which the interest was declared and what was the nature of the interest?

Mr COURT replied:

(1)-(2) No.

(3)-(4) Not to my knowledge.

HEALTH DEPARTMENT, PERFORMANCE INDICATORS

1718. Mr RIPPER to the Minister for Health:

(1) Did the Auditor General's Public Sector Performance Report No. 7 of November 1999 find that the Health Department of Western Australia had a significant variation between the published and unpublished performance indicators for 1997-98?

(2) In what way did the published performance indicators, which would have appeared in the annual report, vary from the unpublished performance indicators signed off by the Auditor General?

(3) What was the reason for this variation?

(4) What action has been taken to ensure that the Health Department of Western Australia does not again place itself in such an embarrassing situation?

Mr DAY replied:

(1) There was no significant variation between the Health Department's published and unpublished performance indicators for 1997-98.

(2) Variations between published and unpublished performance indicators comprised a short explanatory note being added to Performance Indicator 41, a correction to the table reference number in Performance Indicator 44, a minor amendment to an explanatory note in Performance Indicator 51 and the collection of footnotes, 1 to 31 in the Glossary.

(3) Under the Financial Administration and Audit Act 1985 (FAAA), the Minister of Health must table the Health Department of Western Australia's annual report to Parliament within 21 days of receiving the Auditor General's opinion. In 1997-98, after a major revision of the Department's annual report structure, minor corrections were suggested by the Office of the Auditor General (OAG) prior to publication of the Report. These corrections were incorporated in the document and resulted in a variation between the unpublished and published reports.

(4) The minor variations were not considered 'embarrassing'. Improvements in 1998/99 resulted in no variation between the published and unpublished annual reports, as amendments requested by the OAG were incorporated into Report prior to the document being tabled in Parliament.

METROPOLITAN HEALTH SERVICE BOARD, PERFORMANCE INDICATORS

1719. Mr RIPPER to the Minister for Health:

(1) Did the Auditor General's Public Sector Performance Report No. 7 of November 1999 find that the Metropolitan Health Service Board had a significant variation between the published and unpublished performance indicators for 1997-98?

(2) In what way did the published performance indicators, which would have appeared in the annual report, vary from the unpublished performance indicators signed off by the Auditor General?

(3) What was the reason for this variation?

(4) What action has been taken to ensure that the Metropolitan Health Service Board does not again place itself in such an embarrassing situation?

Mr DAY replied:

(1) There was no significant variation between the Metropolitan Health Service Board's published and unpublished performance indicators for 1997/98. There were some minor variations noted.

(2) Performance indicators

2.18 "Waiting Times in Emergency Department" - Waiting times for all hospitals shown in the graph "Urgent Patients" on page 117 of the annual report differed from those audited.

2.86 The indicator result on page 155 for Graylands Selby Lodge Day Hospital shows "$46.3". The audited figures was "$46.31"

3.2 "Number of people aged 70 years and over experiencing assessments by the Aged Care Assessment Teams". Graph results for "Kalamunda" on page 159 of the annual report differ from the graph results in the audited version. Publishers figures are "11", "11" and "10", while the audited figures are "117", "116" and "101"

Dental Effectiveness Performance Indicators: The shading of the pie graph for "Number of shires having public mobile service visits at least once a year" (on page 167 of the annual report) has been altered without the necessary change made to the shading provided in the key.

Dental Effectiveness Performance Indicators: Graph results for "Percentage of the total population holding HCCs, who attended a dentist and those who do not hold a HCC, who attended a dentist" (on page 169 of the annual report) does not include the results for "yes" responses for non HCCs which was included in the audited version.

(3) Variations between audited and published performance indicators in final statements.

Performance indicators/certification. The comment made by the Office of the Auditor General is correct. This was an oversight and had no impact.

Performance Indicator 2.18 – Waiting Times in Emergency Department. This arose from errors in converting from the format of the graphs prepared by the Metropolitan Health Service to that used by the printer. The impact was to show performance better than should have been the case. Steps were taken to ensure version control and data conversion was improved in the 1998/99 Annul Report.

Performance Indicator 2.86 – Average Cost Per Attendance at Outpatient Clinics. This arose in the final print process and had no impact.

(4) The Key Performance Indicators (KPIs) reported by the Metropolitan Health Service Board are complex and comprehensive. Their preparation is a most time consuming exercise requiring completion of a number of drafts before they are ready for audit. During 1997/98 corrections were made during the audit process and after audit whilst final printing was taking place. In completing the Board's 1998/99 KPIs, steps were taken to ensure that the audited version was used by the printers.

METROPOLITAN HEALTH SERVICE BOARD, FINANCIAL STATEMENTS

1720. Mr RIPPER to the Minister for Health:

(1) Did the Auditor General's Public Sector Performance Report No. 7 of November 1999 find that the Metropolitan Health Service Board had a significant variation between the published and audited financial statements for 1997-98?

(2) In what way did the published financial statement, which would have appeared in the tabled annual report, vary from the audited financial statements signed off by the Auditor General?

(3) What was the reason for this variation?

(4) What action has been taken to ensure that the Metropolitan Health Service Board does not again place itself in such an embarrassing situation?

Mr DAY replied:

(1)-(2) No. The Auditor General's Public Sector Performance Report No 7 found that the published financial statements differed from the audited financial statements but this difference was not significant. The management letter received from the Office of the Auditor General (OAG) dated June 8, 1999 noted that these were minor typographical errors in notes to the Financial Statements. Details are:

Note 23. – "0% of the debt …" should have read "30% of the debt …"; and
Note 39. – the effective interest rate of 8.82% was incorrectly shown in the $'000 column.

(3) These were errors made in the final printing process not identified when checking the printer's proofs.

(4) Printers proofs were checked in detail prior to printing to assure errors were identified.

OFFICE OF HEALTH REVIEW, FINANCIAL STATEMENTS

1721. Mr RIPPER to the Minister for Health:

(1) Did the Auditor General's Public Sector Performance Report No. 7 of November 1999 find that the Office of Health Review had a significant variation between the published and audited financial statements for 1997-98?

(2) In what way did the published financial statement, which would have appeared in the tabled annual report, vary from the audited financial statements signed off by the Auditor General?

(3) What was the reason for this variation?

(4) What action has been taken to ensure that the Office of Health Review does not again place itself in such an embarrassing situation?

Mr DAY replied:

(1) Yes.

(2) Note 1(c) and (d) to the financial statements were not published in the Annual Report.

(3) Because of a printer's error. They were in the Draft Financial Statements submitted to the Auditor's Office.

(4) The Office of Health Review intends closer supervision of the printing phase of preparation, in order to minimise the likelihood of this happening again in future. The error was, however, a machine error and happened despite supervision by the print manager.

FOODBORNE DISEASES

1749. Ms McHALE to the Minister for Health:

(1) Does any health agency or other agency in Western Australia record the incidences of foodborne diseases?

(2) If so, which ones?

(3) If not, why not?

(4) What is the estimated number of foodborne illnesses in Western Australia?

(5) What is the estimated cost of foodborne diseases to the Western Australian community?

Mr DAY replied:

(1) Yes.

(2) The diseases that are commonly associated with the consumption of contaminated food or water that are required to be notified to the Health Department are:

Amoebiasis, Campylobacter infection, Cholera, Giardiasis, Haemolytic Uraemic Syndrome, Hepatitis A, Listeriosis, Paratyphoid, Salmonella infection, Shigellosis, Typhoid, Vibrio parahaemolyticus and Yersinia infection.

(3) Not applicable.

(4) A total of 2,288 cases of the diseases specified in the answer to Question 2 were recorded in 1998. Of these cases 517 were acquired overseas.

(5) The Health Department of Western Australia has no precise information on the costs to the Western Australian community.

FOOD SAFETY STANDARDS, LEGISLATION

1750. Ms McHALE to the Minister for Health:

(1) Have the draft nationally uniform food safety standards developed by Australia New Zealand Food Authority (ANZ FA) been approved by the Australian New Zealand Food Standards Council?

(2) If so, when?

(3) If not, when are they likely to be approved?

(4) If yes, has legislation been drafted for Western Australia?

(5) If not, when is it anticipated to be drafted?

(6) Has an analysis been undertaken on the cost to Local Government of the implementation of the proposed food reforms?

(7) What consultation had been undertaken with Western Australian Local Government on the proposed reforms?

(8) What consultation has been undertaken with the food industry in Western Australia, particularly small business?

Mr DAY replied:

(1) The Australia and New Zealand Food Standards Council (ANZFSC) has approved those parts of the Food Safety Standards which concern the Food Safety Practices and General Requirements and Food Premises & Equipment but has not approved the Standards concerning Food Safety Programs. The practices and general requirements and food premises and equipment provisions of the proposed Food Safety Standards are specified performance outcomes covering a range of handling, hygiene and design matters deemed to be necessary to ensure that safe and suitable food is prepared for sale to the consumer. A Food Safety Program is a documented system which specifically examines all food handling operations to identify potential hazards that may reasonably be expected to occur and details measures to control or eliminate the hazards identified. Programs provide an ongoing record of identified hazards, appropriate actions to be taken and monitoring of actions taken which are auditable. Programs would have to take account of practices and general requirements in the other standards to demonstrate that appropriate action has been instituted to protect public health and safety.

(2) This decision was made on 22 October 1999.

(3) No date has been set for adoption of that part of the Standards concerning Food Safety Programs.

(4) Legislation has not been drafted for Western Australia. The Standards are intended to be adopted into the Food Standards Code and when approved by ANZFSC, would be adopted by reference in Western Australia.

(5) Not applicable.

(6) The Australia New Zealand Food Authority has conducted a cost benefit analysis of the proposed Standards. The Health Department of Western Australia is aware of the implications of the Food Safety Standards on local government.

(7)-(8) Several meetings of key stakeholders have been convened, including local government.

HOSPITALS, McGUIRE, DR

1751. Ms McHALE to the Minister for Health:

(1) With reference to question on notice No. 959 of 1999, which hospitals are implementing Dr McGuire's econometric model?

(2) How much has Dr McGuire been paid from 1 July 1999 to 29 February 2000 in-

(a) total remuneration; and

(b) total additional cost?

(3) Is Dr McGuire still contracted to the Health Department?

(4) If so, for how long?

(5) For each of the financial years from 1996 to 1999, how many hours work did Dr McGuire undertake and paid for?

Mr DAY replied:

(1) The econometric model is used by the Health Department to purchase services from all public Health services in Western Australia.

(2) (a) $124,545.25 (Australian dollars)

(b) $36,499.79 (Australian dollars)

(3) Yes. The Health Department undertook an extensive procurement process in Nov/Dec 1999 and January 2000 (public tender) to select a proponent to continue work in assisting the Department in the refinement of output based purchasing policy. Dr McGuire was the successful proponent and has subsequently been contracted to undertake the work specified.

(4) Dr McGuire's new contract with the Health Department is for a period of one year (commencing 8 February 2000) with the option for a second year subject to the procurement of an appropriate work visa by Dr McGuire. The contract specifies 32 weeks of Perth presence per year with availability for 10 months per year.

(5) In the past Dr McGuire has invoiced the Health Department on a weekly basis for work completed. The number of weeks worked in the financial years from 1996 to 1999 are:

1996/97	28 Weeks	at least 1,540 hours at 55 hours/wk
1997/98	38 Weeks	at least 2,090 hours at 55 hours/wk
1998/99	32 Weeks	at least 1,760 hours at 55 hours/wk

It is the Health Department's experience that Dr McGuire works in excess of 55 hours per week in the time he has been contracted by the Department.

GRAYLANDS HOSPITAL, PATIENT NUMBERS

1753. Ms McHALE to the Minister for Health:

(1) How many patients were in-patients at Graylands Psychiatric Hospital during each month from October 1999 to February 2000?

(2) Of these patients-

(a) how many came from Bunbury and environs district; and
(b) how many came from Joondalup and environs?

Mr DAY replied:

(1) 1369

(2) (a) 57
(b) 14

WHITBY FALLS PSYCHIATRIC HOSTEL, BUDGET ALLOCATION

1759. Ms MacTIERNAN to the Minister for Health:

(1) How much has been spent on repairs, maintenance and refurbishment of the Whitby Falls Psychiatric Hostel in each of the past ten years?

(2) What was the budget allocation for Whitby Falls Psychiatric Unit for -

(a) 1997-98;
(b) 1998-99;
(c) 1999-2000?

Mr DAY replied:

(1)

89/90	$95 000
90/91	$123 500
91/92	$104 400
92/93	$132 427
93/94	$102 972
94/95	$126 161
95/96	$131 734
96/97	$169 655
97/98	$109 217
98/99	$114 625

(2) (a) $1,805,200
(b) $1,878,000
(c) $1,860,534

NEDLANDS POLICE STATION, BURGLARY INVESTIGATIONS TEAM

1769. Dr CONSTABLE to the Minister for Police:

Does a burglary investigations team exist at the Nedlands Police Station and, if so –

(a) how many police officers comprise the burglary investigation team;

(b) which suburbs fall within the burglary investigation team's surveillance;

(c) how much funding is dedicated to the burglary investigation team's operations; and

(d) are there other local police stations that house burglary investigation teams?

Mr PRINCE replied:

Yes.

(a) 16.

(b) The Burglary Team located at the Nedlands Police Station is a district resource and conducts some surveillance in all suburbs within the Perth District, in consultation with personnel from police stations and other sections. It is located at the Nedlands Police Station because of available accommodation there and its central location within the Perth Police District. The overriding charter of the Burglary Team, is to investigate the incidence of burglary across the Perth District, identify those responsible and bring them before the appropriate court of jurisdiction.

(c) $61,000.00.

(d) Within the Metropolitan Police Region, District Burglary Teams are located at:

Cannington District – Armadale and Cannington Police Stations.
Fremantle District – Fremantle Police Station

Joondalup District – Joondalup and Warwick Police Stations
Midland District – Midland, Kalamunda and Lockridge Police Stations

These Burglary Teams are district resources and used within the districts as required.

OCCUPATIONAL SAFETY AND HEALTH REVIEWS AND REMEDIES

1770. Dr CONSTABLE to the Minister for Health:

What funding is available in the health budget each year for Occupational Health and Safety reviews and remedies?

Mr DAY replied:

The Public Health Division of the Health Department provides the core function activities for the Health Department and support for rural health services. This includes:

Monitoring – Hygiene/Noise etc
Training on generic Occupational Safety and Health issues
Workplace assessments
Manual Handling Advice/Training
OSH Legislation
Workers' Compensation Claims Management

Allocation - $518K

Public Health is only one area in the health system supporting this function. All Health Services are responsible for the management of Occupational Safety and Health issues.

HEALTH, INFORMATION CAMPAIGNS AND ADVERTISING BUDGET

1771. Dr CONSTABLE to the Minister for Health:

(1) What is the budget for advertising and campaigns to disseminate information to the public for 1999-2000?

(2) How does this budget compare with expenditure in the previous four years?

(3) What was the cost of the booklet distributed to all homes in November last year?

Mr DAY replied:

(1) $3,949,181

(2)

1998/99	1997/1998	1996/1997	1995/1996
$2,251,676	$1,898,900	$1,647,387	$1,611,326

(3) $1,142,000

ROYAL PERTH HOSPITAL, CONSULTANTS

1772. Dr CONSTABLE to the Minister for Health:

With reference to question on notice No. 1356 of 1999, what was the nature of the work completed by consultants engaged by the administration of Royal Perth Hospital between 1 July 1998 and 31 December 1998?

Mr DAY replied:

Name of Consultant (Vendors)	Nature of Work
Wood & Grieve	Consulting Engineers used in conjunction with construction projects
Wood & Grieve	Consulting Engineers used in conjunction with construction projects
Scott & Associates	Consulting Engineers used in conjunction with construction projects
Stantech Electrical Engineer	Consulting Engineers used in conjunction with construction projects
CCD Australia	Consulting Engineers used in conjunction with construction projects
JHK Quality Consultants Pty Ltd	Review present corporate structure, functions and performance within Royal Perth Hospital. Carry out focus group sessions with staff. Develop recommendations for an appropriate corporate structure that complimented and supported the Clinical Divisional structure already existing in the Hospital, using best practice methodologies.
Logical Systems WA (formally ACT Network Integrators)	Network Services Operational Support
Logical Systems WA (formally ACT Network (Integrators)	Network Services Operational Support

SIR CHARLES GAIRDNER HOSPITAL, CONSULTANTS

1773. Dr CONSTABLE to the Minister for Health:

With reference to question on notice No. 1357 of 1999, what was the nature of the work completed by consultants engaged by the administration of Sir Charles Gairdner Hospital between 1 July 1998 and 31 December 1998?

Mr DAY replied:

Consultant	Nature of work
Prime Employee Assistance Services	Counselling services to staff (as required).
Access Programs	Counselling services to staff (as required).
Incom Services	Financial analysis & review for Radiation Oncology and Healthcare Foods. Costing of Cleaning Services. Costing for Orderly Tender submission. Financial review of Supply Chain #2.*
Dillinger Group	Human Resources review of Metropolitan* Health Service's Supply & Accounts Payable functions

*These reviews were part of the Metropolitan Health Service Supply restructure.

FREMANTLE HOSPITAL, CONSULTANTS

1774. Dr CONSTABLE to the Minister for Health:

With reference to question on notice No. 1358 of 1999, what was the nature of the work completed by consultants engaged by the administration of Fremantle Hospital between 1 July 1998 and 31 December 1998?

Mr DAY replied:

(Fremantle Hospital and Health Service)

Consultant:	Stevens McGann Willcock Copping	$10,350
Nature of work:	Chilled Water Plant Upgrade (A replacement programme to reduce CFC Gases on site)	
Consultant:	Consultel	$8,090
Nature of work:	Review of FHHS Telecommunication Services	

HOSPITALS, OPERATING THEATRE CLOSURES

1780. Dr CONSTABLE to the Minister for Health:

With regard to the closure of operating theatres at –

(a) Royal Perth Hospital;
(b) Sir Charles Gairdner Hospital;
(c) King Edward Memorial Hospital;
(d) Princess Margaret Hospital;
(e) Fremantle Hospital;
(f) Joondalup Hospital; and
(g) Osborne Park Hospital,

during the months of December 1999, January and February 2000, how many operating theatres were closed and how long was each one closed?

Mr DAY replied:

(a)	Royal Perth Hospital	All theatres were open other than times listed below 3 theatres closed 1-12 December 99 4 theatres closed week commencing 13 December 99 10 theatres closed 18th December 99 11 theatres closed 19th December 99 5 theatres closed week commencing 20 December 99 10 theatres closed 25th December 99 10 theatres closed 26th December 99 9 theatres closed 27/28 December 99 8 theatres closed 29/30 December 99 8 theatres closed 31st December 99 9 theatres closed 1 - 3 January 2000 8 theatres closed 4-7th January 2000 10 theatres closed 8th January 2000 11 theatres closed 9th January 2000 5 theatres closed 10th January 2000 10 theatres closed 15th January 2000 11 theatres closed 16th January 2000 3 theatres closed 17th January 2000 onwards
(b)	Sir Charles Gairdner Hospital	5 theatres closed 20.12.1999 – 26.12.99 9 theatres closed 27.12.99 – 2.1.00 8 theatres closed 3.1.00 – 9.1.00 5 theatres closed 10.1.00 – 16.1.00 *
(c)	King Edward Memorial Hospital	Day surgery and 2 theatres closed between 23.12.99 and 9.1.00.
(d)	Princess Margaret Hospital	5 theatres closed except for emergencies from 24.12.99 – 9.1.00

(e)	Fremantle Hospital	4 theatres were closed from 20 December 1999 to 10 January 2000
(f)	Joondalup Health Campus	JHC has advised that, during the months of December 1999, January 2000 and February 2000: there are 6 operating theatres of which 1 is not in use, as the workload did not justify keeping more than 5 operating theatres open. Of the theatres that were in use, all 5 were closed for booked elective work over the Christmas period from 17 December 1999 and reopened on 17 January 2000 . During this time, despite being closed to elective work, the theatres continued to complete emergency and urgent work.
(g)	Osborne Park Hospital	All theatres closed except for emergency procedures from 25.12.99 – 9.1.00

*On two occasions during this time an extra theatre was opened to accommodate emergency cases and patient needs such as a living related kidney donor/recipient.

EDDINGTON, MR G.J., LETTER

1792. Mr BROWN to the Minister for Health:

(1) Did the Minister receive a letter from Mr G J Eddington dated 10 February, 2000?

(2) Did Mr Eddington pose certain questions in his letter?

(3) Will the Minister provide a full and comprehensive report to each and every question?

(4) If not, why not?

Mr DAY replied:

(1)-(2) Yes.

(3)-(4) A response was sent to Mr G J Eddington dated 13 March 2000. This response covers all points mentioned in the letter from Mr G J Eddington dated 10 February 2000.

HEALTH, REGIONAL BUYING COMPACT

1797. Mr BROWN to the Minister for Health:

(1) Is the Minister aware of the Regional Buying Compact?

(2) Does the Health Department apply the Regional Buying Compact?

(3) In the preparation of tenders for-

(a) work in; and
(b) equipment and/or services for regional Western Australia,

does the Health Department make a proper examination of the work, services, or equipment that can be provided by local businesses in that region and if so, does the Department ensure that in preparing tenders that such tenders give regional small and medium size business a real opportunity to tender for that work?

(4) What criteria does the Health Department use to determine if it will call tenders for a number of small contracts in different parts of regional Western Australia or aggregate or amalgamate such work, services or equipment into a larger contract?

(5) In allocating tenders does the Department take into account the degree to which regional small business may be able to compete or fairly compete or carry out such work in the regions?

(6) If not, why not?

(7) What process does the Department use to determine -

(a) the size of the tender; and
(b) the locations of the work, services or equipment to be provided by the tender?

(8) What procedures does the Health Department use to ensure local business in the regions is not precluded from tendering from Health Department work by virtue of the size of the tender?

Mr DAY replied:

(1)-(2) Yes.

(3) The Health Department's capital works projects are procured through the Department of Contract and Management Services (CAMS) as the Government's specialist contracting agency in this field. CAMS is responsible for the procurement function including market assessment and application of government supply policies including the Regional Buying Compact. In undertaking "non-works" tenders for goods, services and equipment, the Health Department seeks feedback from users including regional Health Services on potential sources of supply. All

tenders are publicly advertised in The West Australian and on the Government Contracting Information Bulletin Board and Government Health Supply Council website. Where considered appropriate, tenders for rural Health Service requirements are also advertised in regional newspapers.

(4) As a general rule, where goods/services are in common use across all of Health (eg. medical consumables) the Government Health Supply Council aggregates contracts to leverage the total buying power of Health to achieve best value for money outcomes for all health units. Requirements specific to an individual regional Health Service are actioned by means of stand alone tender invitations. On occasions a tender may combine the requirements of a small number of regional Health Services when the same service or goods are required by the users. This approach reduces the tendering cost for both industry and Health.

(5) In evaluating and awarding tenders the Health Department applies all relevant State Supply policies including the Regional Buying Compact.

(6) Not applicable

(7) See (4) above.

(8) See (3) above.

BEITZ, DR MICHAEL LEIB

1812. Mr KOBELKE to the Minister for Health:

(1) Did the Medical Board of Western Australia at its meeting of 16 November 1999 alter the status of registration as a medical practitioner of Dr Michael Leib Beitz?

(2) Was this change in status in effect a demotion for Dr Beitz leaving him no longer recognised as a fully registered doctor entitled to practice in the specialty of anaesthetics?

(3) Was Dr Beitz informed prior to 16 November 1999 that the Medical Board of Western Australia was considering any such change to his registration as a medical practitioner in this State?

(4) If not, why was he denied such natural justice?

(5) For what reason or reasons was such action initiated against Dr Beitz?

(6) What, if any, justification can the Board give for placing the professional standing of Dr Beitz and his right to work in his professional field under such a cloud?

(7) Has the Medical Board now in effect fully reversed the decision that it took at its meeting on 16 November 1999 in respect to Dr Beitz?

(8) Is it a fact that the actions taken at 16 November 1999 meeting of the Medical Board with respect to Dr Beitz were found to be outside its legal powers?

(9) Does the Minister find it acceptable that an agency within his portfolio can take actions which are beyond its legal powers that are detrimental to a citizen of this state?

(10) If so, what action has the Minister taken to ensure that the Board does not continue to operate outside the laws governing it?

(11) What action has the Minister taken to ensure that the Medical Board of Western Australia maintains the confidence of medical practitioners and the wider community given the way in which it has handled the change in the registration status of Dr Michael Leib Beitz?

(12) What are the full legal costs to the Medical Board of Western Australia arising from its indefensible decision regarding Dr Beitz's medical registration?

(13) Who will be responsible for paying the legal fees of the Medical Board of Western Australia with respect to the legal action relating to Dr Beitz?

Mr DAY replied:

(1) Yes.

(2) The resolution of the Board on 16 November 1999 was that the registration of Dr Beitz be transferred from the category:

"Recognised Specialist Qualifications and Experience" to
"Foreign Specialist Qualifications and Experience – Further Training"
for a period of 12 months commencing 16 November 1999.

(3) Until its meeting on 16 November 1999, the Board had not considered any change to Dr Beitz's registration.

(4) For the reasons stated in (3) above, Dr Beitz did not receive any notice prior to 16 November 1999.

(5) Dr Beitz was registered in WA under the Mutual Recognition Act via his registration in Victoria. His Victorian registration only required him to be eligible for fellowship to a recognised Australian Medical College whereas registration in WA required Dr Beitz to be a fellow of a recognised Australian Medical College. Without such fellowship, the Board was of the view that Dr Beitz' registration ought to be transferred in accordance with its resolution on 16 November 1999.

(6) The Medical Board was acting in good faith in accordance with its statutory responsibilities to the public and the profession.

(7) Yes.

(8) On 10 December 1999 the Board resolved to restore Dr Beitz to his registration status prior to 16 November 1999 and on 21 December 1999 resolved that no further investigation be made into Dr Beitz registration. The Full Court of the Supreme Court of WA adjourned Dr Beitz application against the Board on 14 December 1999 and the application was dismissed on 23 February 2000 without any finding being made against the Board.

(9) The Medical Board has acted at all times in a manner which it believed to be appropriate to fulfil its functions.

(10) The Medical Board, by its statute, cannot act outside its legal power.

(11) The Medical Board exercises its powers and functions with integrity, diligence and cognisant of its responsibility to the medical profession and the public.

(12) The Board's legal costs are $4,846.50 and the costs which the Board has been ordered to pay to Dr Beitz in relation to the Supreme Court proceedings have yet to be determined.

(13) The Medical Board of WA.

LEMNOS HOSPITAL AND SELBY LODGE, SHENTON PARK

1842. Ms McHALE to the Minister for Health:

(1) What services are provided by Lemnos Hospital and Selby Lodge in Shenton Park?

(2) Will the buildings and site continue to be used for this purpose?

(3) If not, what is planned for this site?

(4) How many (FTE) staff are currently employed at the Hospital and Lodge as at 28 February 1999?

(5) How many (FTE) staff were employed at the Hospital and Lodge?

(6) How many beds are available at Selby Lodge?

(7) What is the average monthly occupancy for Selby Lodge?

(8) Are there any plans to reduce the number of beds available for patients at Selby Lodge?

(9) Are there any plans to contract out the current services provided at Selby Lodge?

(10) Does the Inner City Mental Health team for the elderly utilise Selby Lodge?

Mr DAY replied:

(1) Selby Lodge is the Centre for the delivery of clinical services to the elderly. There are three components:
Acute in-patient
Day Hospital facilities
Community Psychiatry
Lemnos hospital closed in June 1999.

(2)-(3) The Selby Lodge building will continue to be used for the same purposes. The site on which Lemnos Hospital is located has been sold to the Education Department for the development of Shenton College.

(4)	F.T.E. employed as at 28 February 1999	-	161.60
(5)	F.T.E. employed as at 28 February 2000	-	113.08
(6)	Available beds at Selby Lodge	-	48
(7)	Average monthly occupancy for Selby Lodge	-	89.75%

(8)-(9) No.

(10) Yes.

LEMNOS HOSPITAL, SALE

1843. Ms McHALE to the Minister for Health:

I refer to the sale of Lemnos Hospital and ask -

(a) on what date was it sold to the Education Department;

(b) how much money did the sale of Lemnos Hospital realise;

(c) where have those monies been directed to;

(d) how many beds were available for the treatment of psycho-geriatric patients at Lemnos Hospital;

(e) what has happened to the patients;

(f) what was the dollar value of resources released as a result of the sale of Lemnos (ie recurrent operating costs); and

(g) how have those resources been utilised?

Mr DAY replied:

(a) 6 September 1999.

(b) $13.9 million.

(c) $13.9 million forms part of Health's capital works program.

(d) At the time Lemnos Hospital closed, one ward of 24 beds was operating.

(e) Patients were either discharged to home or a nursing home/hostel at the end of their treatment or transferred to Selby Lodge and other inpatient units.

(f) $5.2 million

(g) Moneys are being or will be used to increase the capacity of community based mental health services for older people across the metropolitan area; purchase a specialised residential care service for 16-24 people with very challenging behaviours; and to provide for the operating costs of a new inpatient unit.

POSTNATAL DEPRESSION

1845. Ms WARNOCK to the Minister for Health:

(1) How many programs are there in Western Australia to address the problem of post-natal depression?

(2) What funding is provided to those programs?

(3) How many women have used these services in the last 12 months?

(4) Will the Government continue funding these programs for women?

Mr DAY replied:

(1) The Health Department of Western Australia (HDWA) purchases 3 specialist non-government postnatal depression (PND) services and is currently tendering for 2 additional services. In addition public mental health services provide clinical treatment for severe PND. There are also other treatment and support services for women with PND that are funded by other agencies.

(2) In 1999-2000 a total of $503,900 was spent on specialist PND services by the HDWA. $50,000 was allocated to country public mental health services for the coordination of PND screening services. $75,000 was spent on General Practitioner education. $25,000 was spent on reprinting an information booklet for new mothers, and $353,900 was provided for specialist non-government PND services including the funds allocated for the 2 new non-government services currently being tendered.

(3) The activity reports for the 3 specialist non-government PND services currently in operation indicate that approximately 300 women have used these services in the last 12 months. The number of women treated in public mental health services for severe PND is currently unavailable.

(4) Yes.

ABORTION LEGISLATION, EDUCATION OF GENERAL PRACTITIONERS

1846. Ms WARNOCK to the Minister for Health:

(1) Is the Minister aware of a study about the impact of the new 1998 abortion legislation on general practitioners in this State carried out by three fifth year medical students in the Department of Public Health at the University of Western Australia?

(2) Since the study highlights the need for further education of general practitioners, will the Government provide that education about the legislation?

(3) If not, why not?

(4) What education or information has the Government provided for general practitioners so far on the subject of the 1998 abortion legislation and its changes?

Mr DAY replied:

(1)-(2) Yes.

(3) Not applicable.

(4) The Health Department of Western Australia, in 1999, provided to General Practitioners in Western Australia a booklet entitled 'Medical Risk of Induced Abortion and of Carrying a Pregnancy to Term'.

SUPERANNUATION, GOVERNMENT EMPLOYEES' ENTITLEMENTS

1849. Mr RIPPER to the Minister assisting the Treasurer:

(1) Is the Minister aware of requests by former State Government employees who have left the public sector before the age of 55 years to roll their superannuation entitlements into alternative funds rather than having their funds remain with the Government Employees' Superannuation Board?

(2) What position is the Government adopting in relation to these requests?

(3) On what basis, has the Government adopted its policy?

(4) What are the financial implications of allowing people to roll superannuation funds into alternative funds?

Mr KIERATH replied:

(1) Yes, as it appears the question refers to members of Gold State Super who have ceased Government employment and whose benefits are preserved in the Government Employees Superannuation Fund until age 55 years.

(2) Since December 1995 members who have been retrenched or whose jobs are transferred to the Commonwealth or a privatised employer have received approval to transfer their deferred benefits to another Fund, but at a discount to reflect the current value of what is a promise of a future benefit. There is no intention to extend this provision to members generally.

(3) The general restriction on rollovers prior to age 55 years has been part of the Gold State Super scheme design since it was introduced by the then Labor Government in 1987, and is due principally to the funding arrangements of the scheme, which is largely unfunded.

(4) Whilst the Government has allowed rollovers in the limited circumstances outlined in my answer to question 2, the cash flow impact on the Consolidated Fund of allowing a general right to transfer could be as high as $200 million and is therefore prohibitive.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1859. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr HOUSE replied:

Fisheries
(1)-(7) Nil. Not applicable.

Primary Industry
(1) Agriculture Western Australia

(2) Family Carer's Room – a trial facility has been established to cater for emergency childcare needs when normal arrangements are not available for some reason.

(3)-(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1862. Mr BROWN to the Minister for Police; Emergency Services:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr PRINCE replied:

Police
(1)-(7) No.

Emergency Services
(1) FESA does not provide on-site childcare facilities.

(2) Not applicable.

(3) Yes.

(4) FESA.

(5) A staff survey indicated there is insufficient demand to provide on-site childcare facilities.

(6)-(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1863. Mr BROWN to the Minister for Planning; Heritage; Minister assisting the Treasurer:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr KIERATH replied:

(1) Valuer General's Office

(2) Family room, where children can be supervised whilst the parent/carer attends to work duties (short term).

(3) Yes.

(4) State Revenue Department.

(5) No.

(6)-(7) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES, ONSITE CHILD CARE

1867. Mr BROWN to the Minister for Local Government; Disability Services; Forest Products:

(1) What departments and agencies under the Minister's control offer or provide on-site childcare facilities for employees?

(2) What is the nature of the facilities offered?

(3) Are any departments or agencies under the Minister's control giving consideration to offering such on-site childcare facilities?

(4) If so, what departments and agencies?

(5) Do any departments and agencies under the Minister's control have the plans to offer or provide on-site childcare facilities to employees?

(6) If so, when?

(7) What is the nature of the facilities that will be provided?

Mr OMODEI replied:

DEPARTMENT OF LOCAL GOVERNMENT
(1)-(7) The Department of Local Government does not provide on site childcare facilities for employees and there are no plans to provide them.

DISABILITY SERVICES COMMISSION
(1) Nil.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

FOREST PRODUCTS
(1)-(2) CALM does not currently provide on-site child care facilities for employees.
(3)-(7) CALM has negotiated an enterprise bargaining agreement that recognises the needs of employees with family responsibilities and is examining a range of options including the provision of an on-site family room for emergency child care.

KEEP AUSTRALIA BEAUTIFUL COUNCIL
(1) None.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

METROPOLITAN CEMETERIES BOARD
(1) Nil at MCB.
(2) Not applicable.
(3) Nil at MCB.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

FREMANTLE CEMETERY BOARD
(1) No.
(2) Not applicable.
(3) No.
(4) Not applicable.
(5) No.
(6)-(7) Not applicable.

WARWICK POLICE STATION, STAFFING

1919. Mrs ROBERTS to the Minister for Police:

(1) Did the Police Commissioner receive a letter of complaint dated 7 February 2000 from a Ms Benjamin of Hamersley?

(2) When was that complaint responded to?

(3) Is the Warwick Police Station adequately staffed?

(4) What measures have been put in place to ensure similarly inadequate responses are avoided?

Mr PRINCE replied:

(1) Yes.

(2) Mrs BENJAMIN was spoken to by Acting Senior Sergeant LETTS of Warwick Police Station on February 17, 2000, again on February 25, 2000, together with representatives of the Education Department, Family and Children's Services, a welfare officer and a psychologist. A further meeting was held on March 3, 2000, with all agencies represented to put forward solutions applicable to the situation. Mrs BENJAMIN was advised on March 9, 2000, of the ongoing action that Police would take in this matter. The strategies put forward have been implemented and are ongoing. Mrs BENJAMIN is aware of them and is satisfied with the action police are taking to address her concerns.

(3) Yes. The staffing at Warwick Police Station cannot be looked at in isolation. It is part of the Joondalup Police District and district resources are available as required. Additionally other support units such as the Independent Patrol Group (IPG) Major Incident Group (MIG) Traffic Operations Group (TOGS) and the Tactical Response Group (TRG) are available and regularly utilized where and when required.

(4) The police response has been adequate. Should Police in the future identify any inadequacy then the appropriate steps will be taken to positively address that situation.

POLICE, COMPLAINT FROM MR FARDOE

1933. Mrs ROBERTS to the Minister for Police:

(1) Has the Minister received a complaint from a Mr Fardoe of Shelly regarding an offence that took place on 9 December 1999?

(2) On what date were finger prints taken from the broken window through which the thieves gained entry identified?

(3) On what date was the person whose prints were identified interviewed by police?

(4) Why was there a delay?

(5) Does the delay concern the Minister?

(6) If not, why not?

Mr PRINCE replied:

(1) Yes.

(2) 20 December 1999.

(3) 23 February 2000.

(4) Offender had moved address with no forwarding address given. Lengthy inquiries were necessary to locate him.

(5) No.

(6) The delay was due to as in (4) and also inquiry officer was required to assist Murdoch Detectives with a murder investigation shortly after the Fardoe burglary was committed.

QUESTIONS WITHOUT NOTICE

ST JOHN AMBULANCE, LOSSES

618. Mr McGINTY to the Minister for Health:

(1) Is the minister aware that St John Ambulance and the St John Ambulance Employees' Superannuation Fund have each invested hundreds of thousands of dollars in loans through finance brokers Blackburne and Dixon Pty Ltd and Global Finance Group Pty Ltd, now in liquidation, and that those loans have now been in default for a long time?

(2) As the Health Department is responsible for a significant part of St John's funding, will any supplementary funding be provided to the ambulance association to cover these losses?

(3) Will superannuation payments to ambulance officers be reduced because of losses incurred through these finance brokers' failures?

Mr DAY replied:

(1)-(3) The St John Ambulance organisation is a non-government entity and, as such, the Government does not control its activities. The Government also has no responsibility for any investment decisions that the organisation may make or for the general policies that it has in place. It is correct that the State Government provides funding to St John Ambulance, through the Health budget, in the order of $15m a year to assist in the emergency transfer of patients. I would be surprised if any of that funding has been invested with finance brokers; however, I will seek information on that.

The operation of the St John Ambulance Employees' Superannuation Fund is an issue for the trustees of that organisation. I repeat that the St John Ambulance organisation and its superannuation fund are not part of the Government of Western Australia.

LABOR PARTY, FINANCIAL MANAGEMENT PRINCIPLES

619. Mr BLOFFWITCH to the minister assisting the Treasurer:

(1) Is the minister aware of a document on financial management principles recently released by the Labor Party?

(2) Are there any references to accurate financial information, and is the minister aware of any breaches of the alleged principles?

Mr KIERATH replied:

(1)-(2) I was interested to read the Labor Party's financial management principles. I am not normally keen on fiction, especially fantasy; however, it would rival anything that Stephen King could come up with. A special part of that document stated that a key aspect of financial accountability is the presentation of comparable, timely and accurate financial reports to the public. Members should dwell on the words "timely and accurate financial reports". Members can imagine my surprise when I received a document by mail called "The Riverton Electorate Review" from an ALP candidate endorsed by the Leader of the Opposition. That document cites a statement peddled by the Labor Party on numerous occasions. I think it said that the Court-Kierath Government had wilfully misspent $600m on the Northbridge Tunnel project. The first thing I asked myself was: How much did the tunnel cost? I do not ever remember seeing a figure of $600m. The whole project, including the bridge, the freeway and the tunnel, will cost about $374m. I am advised that the cost of the tunnel itself is $160m.

That was the Leader of the Opposition's first test. He has sat in this House and said that the bad days when the Labor Party was in government are in the past. He claims to have turned over a new leaf, but he cannot help himself. He says that the tunnel project will cost $600m, but that is simply wrong. Unfortunately, the Leader of the Opposition has not learnt from his mistakes of the past. He is still up to his age-old tricks of trying to fudge the figures. Heaven help the poor people of Western Australia if he ever gets his hands in the till again.

MFA FINANCE PTY LTD, MINISTRY OF FAIR TRADING INVESTIGATION

620. Mr McGINTY to the Minister for Fair Trading:

I refer to the minister's inability to answer a question in this place yesterday regarding the activities of a Ministry of Fair Trading investigator and his promise to seek advice and report back. I ask -

(1) Is the minister now able to say whether the Ministry of Fair Trading, or the Finance Brokers Supervisory Board, is investigating MFA Finance Pty Ltd?

(2) Has the minister ordered the investigator to immediately stop interfering in the fraud squad investigation, given police mistrust of his ministry and concern that the integrity and security of their investigations will be compromised?

Mr SHAVE replied:

(1)-(2) I have no evidence that the person concerned has been interfering in the fraud squad investigations.

Mr McGinty: His name is Jack Willers, and I can give you the names of half a dozen people who have been approached by him wanting them to give statements.

Mr SHAVE: I do not intend to tell anyone how to conduct an investigation. As to whether Mr Willers is investigating some finance brokers, and in view of statements and public comments made in the Press, I hope that he is addressing those issues.

Mr McGinty: You haven't bothered to find out, minister. What a disgrace! You are asleep on the job again.

Mr SHAVE: No, when the member for Fremantle said I had not tried to find out, he was wrong. I have a briefing paper with me on that whole issue.

Dr Gallop: Table it.

Mr SHAVE: I do not have a problem with tabling the document. I have been told that when the registrar of the Finance Brokers Supervisory Board was approached by Patrick Walker, the chief executive of the department, he was told that any investigations that were under way were bound by the secrecy provisions and the registrar was not prepared to disclose that information.

Mr McGinty: You could always write a letter to the newspaper and disclose it!

Mr SHAVE: It is interesting that the shadow minister, the member for Fremantle, says that. When I did disclose in the Press the name of someone who had been involved in these finance broking activities - which the shadow minister was not prepared to do - he accused me of a criminal act.

Point of Order

Mr KOBELKE: In his reply the minister acknowledged he was quoting from a briefing paper, which I take to be a formal document. I ask therefore that under standing orders he be requested to table the document.

The SPEAKER: The minister indicated he was prepared to table it. I should have said "papers tabled" which I have now done.

Questions without Notice Resumed

[See paper No. 766.]

ELECTRICITY DISTRIBUTION, TECHNOLOGY DEVELOPMENT

621. Mr BARRON-SULLIVAN to the Premier:

In view of the fact that Western Australian companies are continually embracing new technology to assist their businesses to become more efficient and responsive to customers, how is a new entry into the State's industry utilising world first technology?

Mr COURT replied:

I thank the member for some notice of this question.

Earlier today I had the opportunity of witnessing a document about arrangements between a Western Australian company, WA Consolidated Power Pty Ltd and Honeywell Ltd. They have developed technology in Western Australia that enables them to connect the control room for the distribution of electricity between the generator and the customer, using an Internet link. They have trialled this project with power generated from Worsley connected to the Boddington goldmine. It has been successful and will be put into commercial operation. It uses the Internet for the communication link between the two. Honeywell says it has been so successful it now proposes to market this technology internationally.

The fact that this technology was developed here in Western Australia is once again a sign of the technology developments that we are seeing often related to quite traditional industries. I acknowledge all the people involved in developing this technology, which is now going to be sold internationally from Western Australia. We should be proud of those achievements.

YABURARRA NATIVE TITLE CLAIM, NEGOTIATIONS

622. Mr RIPPER to the Minister for Lands:

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

Mr SHAVE replied:

I have had no discussion with David Johnston. Until two days ago I had only heard the name Yaburarra. As far as the Department of Land Administration goes I expect that Johnston, along with everyone else, would have advised the group of claimants and dealt with the matter in the normal manner. However, if the member opposite would like detailed advice from the department of its involvement I will be happy to provide it.

OLD GROWTH FORESTS, PROTECTION FROM LOGGING

623. Mr MASTERS to the Minister for Forest Products:

The Green movement believes that last week's rally on the steps of Parliament House has reignited the forest debate. To show that the Government has effectively met the community's wishes on forest issues, will the minister please advise what proportion of old growth forests have now been protected from logging as a result of the Regional Forest Agreement and the Premier's changes to management practices announced last July?

Mr OMODEI replied:

The target level for reservation of old growth forest in the nationally agreed reserves criteria is 100 per cent for depleted old growth and 60 per cent for other old growth. The levels of reservation in our old growth forest in the south west exceed the nationally agreed targets. At least 86 per cent of the old growth karri forest is in reserve and 70 per cent of the old growth jarrah forest is protected by the conservation reserve system.

In the depleted forest 100 per cent is reserved, which is the agreed figure, and in the other areas the 60 per cent is well and truly exceeded. Further to that, as minister, I have been working with industry for the voluntary step down of the industry. It is not an easy task to complete. Both sides of politics have of course agreed in a bipartisan way to original management plans. We would have been looking at a reduction in the jarrah forest down to 300 000 cubic metres at this time which needed to occur by 2003. The Regional Forest Agreement refers to 286 000 cubic metres. Discussions with industry indicate that we are on target to reach those objectives and I am determined that will be the case.

We are further encouraging value adding of our products. We have a strong drive to value add our wood products and that is proving a success with great cooperation from the sector. We spent $8m on the Manjimup plant propagation sector. This year it will produce 20 million plants that will go out in the form of blue gums and *Pinus radiata* and *Pinus pinasta*. Much of that resource will be used to ameliorate salinity in the salt-prone areas of the State.

CHESTERTON INTERNATIONAL AND ROCKINGHAM PARK, CONFLICT OF INTEREST

624. Ms MacTIERNAN to the Minister for Planning:

I refer to the letter of 24 February 1998 from Chesterton International to the chief executive officer of the Subiaco Redevelopment Authority acknowledging that the chairman of Chesterton International was also the director of Rockingham Park Pty Ltd, and ask -

(1) Given that Chesterton International had overseen the redevelopment tender assessment and that Rockingham Park was a leading partner in the successful tender, what steps were taken to investigate the extent and impact of this declared conflict of interest?

(2) Did the terms of Chesterton International's engagement as consultants require them to disclose any potential conflict of interest?

(3) Does the minister acknowledge that there is a clear conflict of interest in Chesterton's role?

Mr KIERATH replied:

(1) Tender assessment was the responsibility of the Subiaco Redevelopment Authority. It established a panel to assess the submissions. The panel made a recommendation to the board and the board of the authority made a decision. It was also run past me as minister and I endorsed it wholeheartedly.

Mr Ripper: What was Chesterton's role.

Mr KIERATH: I will answer question (3) in a moment. The first selection panel comprised Ron Doubikin, chair; Wally Cox, chief executive officer; Karen Hyde, manager of planning at SRA; Howard Mitchell, a consultant from EPCAD; and Graham Iddles, Chesterton International, consultant. In the EOI process, the panel narrowed it down to a short list of six who were then invited to tender. The second panel which included all of the above, plus Patrick Walker, chief executive officer of the City of Subiaco, and a probity auditor, Simon Jessamine from Western Pacific, which assessed the formal tender.

(2) No, there was not a requirement to disclose any potential conflict of interest.

(3) There was no conflict of interest.

FLORA PROMOTION, JAPAN EXPO

625. Mr MASTERS to the Premier:

Western Australia's unique environment has become a major tourism drawcard for this State. How is the State's flora being used to promote Western Australia at a major gardening expo being held in Japan?

Mr COURT replied:

Last year the Western Australian Government was invited to exhibit in the Japan Flora 2000 gardening and landscaping exhibition on Awaji Island, part of the Hyogo Prefecture, which is our sister State. We made a decision to participate and a display was constructed representing a Pilbara-Kimberley landscape and incorporating three boab trees and other flora from Western Australia. I will pass around some photographs of this exhibition.

Seventy seven other countries and/or states are participating in this Expo. The Western Australian display won three gold medals for the best garden design, the best floral display and the best perennial plants for varieties of the kangaroo-paw.

They also received the honour award for the best international exhibit, and five silver medals and nine bronze medals in other categories. When one considers that 77 other countries or States are participating in this expo, these are not dissimilar to the awards won in London at a major exhibition.

I thank the Western Australian Botanic Gardens and Parks Authority, particularly the team at Kings Park who designed the project along with David Smith of Plan (E) Landscape Architects. These people were supported by the following in the private sector: Argyle Diamonds, Centurion Transport Co Pty Ltd, the Giga People, Midland Brick Company Pty Ltd, the Nungarin Heritage Machinery and Army Museum Inc and Sadleirs International. One of the companies paid for the cost of exporting three live boab trees to Japan for the exhibition, and this relatively low cost exhibit won the best international exhibit award. Significantly, 40 000 people a day are currently going through this exhibit, with five million people visiting this exhibition in the next six months. We can be proud that we have this display at this exhibition.

SUBIACO CENTRO PROJECT, TENDERS

626. Ms MacTIERNAN to the Minister for Planning:

Notice has been given of this question. Given the relationship between the tender assessor Chesterton International and the successful tenderer, Rockingham Park Pty Ltd, in the Subiaco Centro project, I ask -

(1) What steps have been undertaken to independently assess the claims by unsuccessful tenderer Westpoint that Rockingham Park's tender did not conform to design guidelines, and that it was unfairly treated in the assessment process?

(2) What has been the cost to date of legal fees in defending the action by Westpoint against the Subiaco Redevelopment Authority?

Mr KIERATH replied:

(1) The ultimately successful tenderer in my view, and that of virtually everybody who looked at it, was by far the superior tender in fitting with the character of Subiaco. I say that up-front. There is some difficulty in answering this question as this matter is the subject of legal action which will determine the outcome.

(2) The amount is $53 210.

JOONDALUP POLICE ACADEMY, CONSTRUCTION

627. Mr BAKER to the Minister for Police:

I refer to the recent earthworks associated with the construction of the new $40m Joondalup Police Academy. Can the minister advise whether tenders have been let for the construction of this important, state-of-the-art police training facility, and when construction will commence?

Mr PRINCE replied:

I thank the member for some notice of this question. The Department for Contract and Management Services distributed a request for tender No 71199 - "Police Training Academy, Joondalup Construction" - to a short list of builders on 7 February of this year. The tender closed on 17 March. I have not yet received any advice in that regard, but I expect it is still in the evaluation process with CAMS. I hope in the near future we will see an announcement of an award of contract.

WEAPONS ACT, ADVERTISING

628. Mrs ROBERTS to the Minister for Police:

Some notice of this question has been given. I refer to the new Weapons Act and regulations which came into effect on 1 March.

(1) Was the media release from police media and public affairs on the Weapons Act sent to all country media outlets; if not, why not?

(2) Was print advertising on the Weapons Act regulations limited to targeted city newspapers and the *X-Press* magazine; if so, why?

(3) How are country people being advised of the new penalties associated with the new laws?

(4) Have country media ever previously been excluded from advertising changes to legislation related to the police portfolio?

Mr PRINCE replied:

(1)-(4) The assertion - which the member is probably not trying to get to given the source of her information - is that people are not informed. Parliament passed a new law called the Weapons Act, with regulations, that was proclaimed last September. A moratorium on its enforcement lasted for six months and expired on 1 March, since when it has been enforced; in fact, people were charged only yesterday in relation to some serious matters under that Act.

Last September the Commissioner of Police and I conducted a joint press conference, which was a real show and tell. With the assistance of police officers, a variety of non-firearm weapons were displayed. All the media were in attendance with television, radio and many of the print media. It was very widely reported. It was reported in newspapers in my home town, as well as through the state-distributed newspapers and many other forms of media. Since then, the application of the Weapons Act has been the subject of media comment on a number of occasions, such as on talkback radio and elsewhere. Another press conference was held on 1 March. I have with me a copy of the article that appeared in the country and city editions of *The West Australian* on page 5 of the 2 March edition under the by-line of Julie Butler. I table that article.

[See paper No 767.]

Mr PRINCE: I have a photocopy of page 3 of the *Collie Mail* containing a photograph of what is undoubtedly a very handsome police officer holding up a butterfly knife. I know that other country newspapers reported in a similar fashion. As one cannot necessarily get through on the web site, here is a copy the press release of 1 March taken from the web site. That is also available so people can understand the information.

Public affairs, through the Police Union (WA), have fed the member some line that only limited paid advertising was carried out of the existence of the Act and its regulations. That is from where the member obtains her information. Consequently she draws the erroneous conclusion that people in the country are not being informed because no paid advertising necessarily occurred in the country. We bought advertising in the *X-Press* magazine and elsewhere to ensure it reached every part and targeted parts of the population so people know what is going on. Although it is possible that some people in this State do not yet know about the Weapons Act and regulations, I would be very surprised if it were country people.

Why? Despite all the country members of Parliament - that is, 19 Liberal Party, nine National Party members, three Independents and eight Labor Party members - the member for Midland is the first member to raise the subject. I am absolutely sure that through the police officers, police stations, the mainstream media of television, radio and newsprint and everywhere else, we have covered the State as exhaustively as possible. Police media have bought advertising where they thought it was appropriate to achieve as wide a coverage as possible. I am sure we have achieved that goal.

SCHOOLS, PERFORMING ARTS CENTRES

629. Mrs HODSON-THOMAS to the Minister for the Arts:

A number of students in my electorate attend St Mary's College, and I understand that the minister assisted the opening of the college's new performing arts centre last week. What is the relationship between the Ministry for Culture and the Arts and schools?

Mr BOARD replied:

I had the opportunity to participate last week in the opening a St Mary's performing arts centre. I thank the member for Carine for the question. There are 45 state schools and 11 independent schools with dedicated performing arts centres in Western Australia. An explosion has occurred in the number of young people getting involved in performing arts, music and visual arts in our schools as these arts have become part of the core learning area in Western Australia. That has occurred not only for students who want to become involved in the arts as a career, but also because the disciplines and learning experiences the arts offer can be taken to many other professions.

A strong program has been developed between the Ministry for Culture and the Arts and the Education Department called Arts Edge. This encourages young people into the core learning area, and assists in the training of teachers throughout the State. This year we hope to develop the program strongly, and connect more schools and students into the arts fraternity, particularly leading up to the Perth International Arts Festival 2001. A great opportunity exists next year to connect the schools with activities during the festival.

BUDGET DEFICIT, FORECASTS

630. Mr RIPPER to the minister assisting the Treasurer:

I refer to the minister's statement on Tuesday on his Government's financial management. Can the minister confirm that the latest government forecasts show that the State Government is heading for -

(a) A cash deficit of $621m;

(b) An operating deficit of $120m;

(c) An increase in total state net debt of $800m; and

(d) An increase in general government net debt of $540m this year?

Mr KIERATH replied:

The member should put that question to the Treasurer.

SCHOOL-IN-OFFICES SCHEME

Mrs PARKER to the Minister for Education:

Some years ago the Education Department opened Western Australia's first school-in-houses scheme, which I understand was an outstanding success, certainly in the suburb of Ellenbrook next to my electorate. I have recently heard reports that there may be a new initiative to open a school-in-offices. Will the minister provide some information on this proposal?

Mr BARNETT replied:

I thank the member for the question. As she was involved in the first school-in-houses in Ellenbrook, which I think was in 1996, she will know that was very successful. It allowed primary school education to go into a rapidly growing urban residential area prior to the justification of a new primary school. Those houses in Ellenbrook have subsequently been returned to housing and a permanent school is now operating with some 600 students. There have been five subsequent school-in-houses projects. At Secret Harbour there has been a school-in-shops project, where a shopping centre was built prior to being required for retail outlets. It has operated and continues to operate for the moment as a school and will in due course be relaced by a permanent school. Ellenbrook Primary School is growing rapidly and, therefore, at Coolamon nearby, a school-in-offices will be established and will open in mid-May. It will be based on six office units, which are ready now, and a further four will be added to them. Initially 80 students, principally in early childhood, will use that school. It is a very innovative way of bringing education into areas earlier than would otherwise happen. I commend the Education Department and the Department of Contract and Management Services for putting the initiative together. I also thank developers who have been very proactive in doing it. They have been very successful, and provide excellent learning environments and have strong community support. We will continue with the policy of bringing education early into new residential areas.

GOODS AND SERVICES TAX, IMPACT ON SENIORS

631. Mr RIPPER to the Minister for Seniors:

I refer to an answer provided by the minister last Tuesday in respect of the impact of the goods and services tax on seniors, when she claimed that the Office of Seniors Interests is undertaking an analysis of the impact of the GST in conjunction with Family and Children's Services.

(1) Is the minister now in a position to provide the House with an insight of how the GST will impact on seniors?

(2) Will the minister now provide the House with briefing notes on the issue of the GST and seniors, given that she promised to provide the note to the Leader of the Opposition last Tuesday?

Mrs van de KLASHORST replied:

(1)-(2) I have not yet received the response from the department. Treasury is still working through these matters. I will bring to the House's attention the fact that under the new tax system pensioners will benefit from increased pensions and allowances. Not all of those increases will be paid out on the goods and services tax but will be coming into pensions.

Mr Kobelke: How do you know if you do not have an analysis?

Mrs van de KLASHORST: This is information on the new tax system, which perhaps the member should know about. I know about it and therefore I am telling the House about it. The Commonwealth Government will increase the maximum rate of all social security and service pensions by 4 per cent from 1 July. That is above the expected extra costs. The 4 per cent increase will be paid as a pension supplement on top of the base pension. The 4 per cent increase will consist of an up-front advance of 2 per cent and a real increase of 2 per cent; in other words, the increase will be above any anticipated change in the tax system. The exact amount of the increase will depend on the pension rate. It would mean around $14.50 a fortnight extra for single pensioners and around $12 a fortnight for each member of a pensioner couple. There will be other associated increases. Pharmaceutical allowances and mobility allowances will be increased by 4 per cent on 1 July; rent assistance will be increased by 7 per cent; the income and asset test-free areas of social security and service pensions will increase by 2.5 per cent. More people in Western Australia and Australia will be eligible to access pensions and associated benefits. The Opposition continues to go on about the GST but it has not yet worked out that it is a whole tax package which will benefit Western Australians.

GOODS AND SERVICES TAX, IMPACT ON SENIORS

632. Mr RIPPER to the Minister for Seniors:

As a supplementary, will the minister provide the House with the promised briefing note?

Mrs van de KLASHORST replied:

I have instructed my ministerial office to do that. I am not sure where it is at but I will check it out.

JOONDALUP CITY WOLVES BASKETBALL CLUB, LAND

633. Mr BAKER to the Minister for Lands:

I refer to the land situated immediately to the south of the intersection of Collier Pass and Joondalup Drive, Joondalup, currently owned by LandCorp, leased to the City of Joondalup and subleased by the Joondalup City Wolves Basketball Club Inc. Will the minister advise whether LandCorp is prepared to enter into negotiations for the sale of the land in question to this very successful sporting club?

Mr SHAVE replied:

The land referred to is leased to the City of Joondalup which subleases it to the Wanneroo District Basketball Association Inc. The lease period expires in 2002. The city has options to extend until 2012. LandCorp is not proposing to sell the land in the immediate future. However, once a decision to sell the land has been made, LandCorp would offer the land for sale by public process, probably by tender. The basketball association would be invited to participate in this process.

WEDGEWOOD CHINA TEA SET, PURCHASE

634. Mr CARPENTER to the Minister for Family and Children's Services:

(1) Has the minister taken the opportunity to acquaint herself with the $3 000 Wedgewood china seat set purchased by her predecessor?

(2) If so, does the minister agree with her predecessor that the tea set represents very good value for taxpayers' money and is it still in use?

(3) Or has the minister done the right thing by taxpayers by selling the Wedgewood and spending the proceeds on needy families?

Mrs van de KLASHORST replied:

(1)-(3) When I moved into the ministerial office I accepted what was there. If we went to the trouble of selling the tea set, a new tea set would have to be bought. That would mean that we would spend more taxpayers' money. The tea set is used daily.

Several members interjected.

The SPEAKER: I ask all members to read the standing orders.