WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Thursday, 15 October 1998

Legislative Assembly

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

PUBLIC HEALTH SERVICES

Petition

Mr McGowan presented the following petition bearing the signatures of 130 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned, respectfully request that the Government acts to rectify the current situation of long waiting lists in the public health system by directing more funding into the public health and hospital services. We also request that the Government halts any further downgrading of these services so that we as a community get the health care that we deserve.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 63.]

PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Report on State Support for the Mid West Iron and Steel Project

MR TRENORDEN (Avon) [10.03 am]: I present for tabling the Public Accounts and Expenditure Review Committee interim report on the nature and extent of State support for the mid west iron and steel project interim report No 37. I move -

> That the report be printed.

This report does not require a great description from me as chairman of the Public Accounts and Expenditure Review Committee. The report states that the inquiry into this project has been suspended due to very public matters relating to the project. The committee will give further consideration to the matter if it is worthwhile some time in the future.

Question put and passed.

[See paper No 255.]

TRIAL SITTING HOURS

Motion

MR BARNETT (Cottesloe - Leader of the House) [10.04 am]: I move -

> That for the next two sitting weeks commencing on Tuesday, 20 October 1998 -
>
> (a) The House will not break for meals on Wednesdays and Thursdays;
>
> (b) Private Members' Business will take precedence on Wednesdays from 3.00 pm to 7.00 pm and Government Business will take precedence at all other times; and
>
> (c) Grievances will be taken at 3.00 pm on Wednesdays.

This motion stems from recommendation 22 of the Standing Orders and Procedure Committee report on the Commission on Government recommendations tabled in the House in June this year. A matter considered by the Standing Orders and Procedure Committee in its report was COG recommendation 113 which in part proposed in relation to this House that -

> Hours of sitting should be extended to approximate those of the House of Representatives and the Senate.

Although the Standing Orders and Procedure Committee did not support this COG recommendation, it did propose a trial of new sitting times which would allow members to meet family commitments and presumably undertake committee work on Wednesday evenings after 7.00 pm. In order to maintain the current number of sitting hours each week and adjourn the House at 7.00 pm on Wednesdays, the motion proposes that the House meet on Wednesdays and Thursdays without scheduled meal breaks. Under this motion, for the next two weeks, sittings on Tuesdays will run from 2.00 pm to 6.00 pm and from 7.30 pm until 10.00 pm. On Wednesdays the House will meet at 11.00 am and adjourn at 7.00 pm without

breaking during the day for lunch or dinner. On Thursdays the House will meet at 10.00 am as it currently does and adjourn at 6.00 pm without the one hour lunch break at 1.00 pm. As outlined in the motion, it is envisaged that grievances will be taken on Wednesdays at 3.00 pm with private members' business running from approximately 4.00 pm until 7.00 pm the same day. Members should be aware that, apart from Tuesday when the House meets at 2.00 pm, the bells will not be rung at 2.00 pm to signal the start of question time. Members on both sides of the House should be alert and ensure that they are in the Chamber for question time. Additionally, consideration must be given to divisions being taken between 1.00 pm and 2.00 pm on Wednesdays and Thursdays which would normally be the luncheon break. We, as a House, should discuss and manage that issue cooperatively over the next two weeks. It is my view that we should not have divisions during that period.

At the end of the trial period, it is intended that the House will revert to the current sitting arrangements for the rest of this year. I will canvass the views of Government members after the trial period and make an assessment from their feedback. I assume that the opposition leader of House business and Whip will do the same with their members. The effects of the trial for the Parliament and for the Chamber and Hansard staff will need to be reviewed. As Leader of the House, I have some reservations about the times proposed in this trial. I do not know whether it will work well. However, in the spirit of the recommendation, the House should follow the exact proposal of the standing committee. It will change the way we operate for the next two weeks. I will observe with interest whether people make effective use of the additional time and we will take it from there.

During the week I mentioned the prospect of the House sitting continuously until it rises for Christmas. I think we should do that, although it makes no difference personally. The idea met with mixed reactions and I will talk to some members on both sides of the House during the course of the day and, before the end of this day's sitting, confirm that plan or the reversion to the prearranged sitting weeks.

MRS ROBERTS (Midland) [10.08 am]: The Opposition supports this trial of new sitting hours. It is a positive step. Many people have told me what a nonsense it is for us to sit here until 11.00 pm on Tuesdays and Wednesdays and later in the year often on Thursdays as well. It is interesting that some people appear to believe that we are cutting hours out of the program. That is not the case. Anybody who sits in this House for the time that I do will be aware that for much of the time only a handful of members are here. Quite often only three or four members are in the House.

In those circumstances there would be no difficulty sitting through the dinner breaks. Provided there is cooperation with the business to be conducted during those times, it will be possible to proceed with that business and members can go home at 7.00 pm. A number of country members believe that they will be disadvantaged. They hold the view that when they are in Perth we should sit around the Chamber to occupy their time. I do not hold that view. They should get a life and do something else on Wednesday nights - perhaps they could catch up on their correspondence. It is the most specious argument that the rest of us should sit around the Chamber on Tuesday and Wednesday nights because they are in Perth. This will prove advantageous to many members, not the least of which will be government members. I am aware that government ministers have a very heavy workload. To have an evening in which they can meet their ministerial commitments and catch up on other work will be advantageous.

It is a two-week trial. I agree with the Leader of the House: This may not be the ideal format. Many parliaments in the Commonwealth and around the world have strayed away from the old-fashioned and antiquated sitting hours that are used in this House. The Federal Parliament has members from all around the country. They very rarely sit beyond 8.00 pm and they certainly do not sit around until 10.00 pm, 11.00 pm or midnight. They did once upon a time but not any more. The same argument that country members or those from other States happen to be in Canberra at that time holds just as true. This is a positive move. I congratulate the Leader of the House for having the fortitude to bring forward this trial.

MR BROWN (Bassendean) [10.12 am]: I look forward to this trial period. The test that should be applied is one not of individual member's preference, but of the operation of the House; that is, to see whether, when we sit through the lunch and dinner breaks, the House can operate effectively. With a level of cooperation from both sides, it can operate effectively. If the business is structured in such a way, non-contentious business can be debated during lunch and dinner times. We should not worry about the tea-break for Wednesday afternoons because the intention is to finish at 7.00 pm or, presumably, between 7.00 pm and 8.00 pm. As we normally finish between 11.00 pm and midnight, that is not too late and members can still enjoy a meal after the House rises. The question is whether it is within the capacity of both sides of the House to agree to some form of non-contentious business between the hours of 1.00 pm and 2.00 pm to enable members to enjoy a lunch break. Given the nature of the debates that often take place in this House, it is not necessary to have contentious debates during those hours. I hope that, with cooperation, the debate can be structured and those members who are not involved in the debate will have an opportunity to have some lunch. Those members who are involved with the committee stage of Bills will not be terribly disadvantaged by sitting through the luncheon break.

I remind members that many people in this State are continuous shift workers. Many of those people take a break on the run; that is, they take a 20 minute paid break during their eight or 10-hour shift. The plant does not close down while they take their break; it continues to operate. People who work in hospitals, power plants and a variety of occupations do not stop simply because it is not possible to close the business or stop the business for an hour during the day or the evening;

the business must continue. If it is within the capacity of industry and the employees to roster and structure themselves in such a way in which industry can operate 24 hours a day, seven days a week, it should be within the capacity of this Parliament to operate within reasonable hours or in an effective way so that the business of the Government of the day or the Opposition can be attended to effectively. It would amaze me that at the end of the period, after due assessment, members arrive at the conclusion that that is not within the capacity of members of this House. I cannot conceive of that being the case. That would be a sad reflection on the capacity of people in this place to order business in such a way that is beyond our capacity to order non-contentious business for the two hours of the week that coincides with lunchbreaks.

If we do not have that meagre capacity, I do not know what we are doing with the major decisions that must be made by this Parliament. We must have the ability to work collectively among ourselves in a way that is beneficial to the operation of this House and the members and the parties which operate in this House. I look forward to the trial. I hope that it proves successful and if it has any hiccups, they should not be looked at as reasons not to go ahead with those sitting hours, but as procedural steps that must be taken to overcome those hiccups.

MR McGOWAN (Rockingham) [10.17 am]: I congratulate the Government and the Leader of the House on the amendment to the Standing Orders relating to the sitting hours of this place. It is a good amendment. Last year, during the final debate, I indicated that I was surprised by the hours of this place. It was my first year in Parliament and at the time I said that it would be a good idea. The Leader of the House said that the Government was looking at it. I am pleased that it is putting these changes into operation. I would have gone further and put it into operation for the rest of the year. I think it will be an outstanding success and all members, once they get into the swing of things, will like it and want it to continue.

It is a good idea for two principal reasons: Firstly, when it is late in the evening, the standard of debate diminishes.

Several members interjected.

The SPEAKER: I ask members to come to order. About eight or nine conversations are taking place and it is very difficult to hear the member and it is difficult for Hansard. If members want to have a conversation, they can leave the Chamber.

Mr McGOWAN: The standard of debate diminishes the later the sitting continues. The level of interest among members diminishes substantially. Members have only to come into the Chamber to see the number of members in the Chamber versus the number of members who are showing no interest in the proceedings of the House. Secondly, I am a relatively newly married man and I like going home at a reasonable hour.

Mr Shave: Give yourself time.

Mr McGOWAN: Unlike some members, I like to see my wife. I like to see her at an hour -

The SPEAKER: Order! This might be in "Inside Cover"!

Mr McGOWAN: Mr Speaker, I will show my wife this piece in *Hansard*. As I was saying, I like to see my wife, and I am sure she likes to see me, at a relatively early hour. The Premier also has a young family and I am sure he, too, would like to see his family earlier. Although many members of the general public may not think so, politicians are human and we like to have a reasonable family life, like everyone else. I place on the record my congratulations to the Government.

MR JOHNSON (Hillarys) [10.20 am]: As a member of the committee that put forward the suggestion, it is appropriate that the leader of the opposition business and a government member should say a few words on this proposal. I am all in favour of the trial times for the sitting of this House. The member for Bassendean got it wrong: He thinks we will sit through the lunch hours on both Tuesdays and Wednesdays. We will not; we will sit through not only the lunch hours on Tuesdays and Wednesdays, but also the dinner break of an hour and a half on a Tuesday evening, as well as sit longer on a Wednesday, unless there has been a change of mind.

These new sitting times can work only with the corporation of those on both sides. Unless Opposition members are prepared to cooperate, this trial will not work. Very often the Leader of the House will facilitate the needs of those opposite; for example, it may suit the Government to bring on a Bill, but if the shadow spokesperson is not here, we must leave that debate aside. Those opposite must ensure their people are here at the appropriate times. During these times perhaps we could deal with committee reports. This morning we will spend an hour or so discussing the report of the Public Accounts and Expenditure Review Committee.

Mr Carpenter: Try giving your own side some advice. We don't need your advice.

Mr JOHNSON: The member for Willagee is a bit arrogant this morning. I am not trying to give those opposite advice; I am trying to put some constructive comments before this House. I suggest that he might do the same some time, instead of making silly, inane interjections. I am suggesting that we could bring on committee reports - the debate on them does not require a lot of members to be in the Chamber, unless they are interested in the report - the 90-second statements and grievances. Matters could be dealt with that required no divisions to be taken. It will add to the smoother running of the House. I am not giving advice to the member for Willagee. I would never dream of doing that because he would never listen

anyway. These suggestions are quite sensible, and I hope the Leader of the House will take them on board. These sitting times can work with goodwill, but it must come from both sides of the House. We will certainly get that from those on the Government side. I hope we get it from those opposite, on all aspects, and that they do not try to pull any stunts, such as calling for quorums and divisions when the House is sitting during the lunch and dinner breaks.

MR MARLBOROUGH (Peel) [10.26 am]: I commend the Government for this attempt at time management. Unlike some speakers, I do not share the view that we necessarily should not spend time in this Chamber, whether the reasons be associated with the routine of country members or whether members prefer to be home earlier. I am very much of view that people in the community are concerned about the decisions we make in this Chamber, regardless of the time of the day or night the issues are debated. That is what we must look at when deciding whether the system will work. The Leader of the House suggested that no divisions should be called in the debates during what were the lunch and dinner breaks. That is the major weakness. I am not being critical. That notion just highlights the fact that things are not bedded down on the government side, that those members have not thought it through completely. We may well just have to suck it and see during the next two weeks.

Mr Barnett: I am accepting the recommendation of the committee as it is written. As I said, I do not necessarily agree with it but, in fairness to the committee, we should apply what it is recommending. It might be that we have a common, half-hour break for lunch. We may end up with different variations.

Mr MARLBOROUGH: That is what we must be concerned about. The Government is very much in charge of the political agenda, but at times there is a very heated debate on very important matters. It will be interesting to see whether, at the arrival of midday, we can suddenly drop a heated debate to carry on some other Micky Mouse debate to get us through what was normally lunchtime. There is no benefit in the Parliament going into that arena. We are interested in pursuing healthy and vigorous debate. In a democracy we do not go out in the streets and shoot people; we have the vigorous debates, the fights, in the Chamber, and that is where they should take place.

Some people may see better time management as giving us the ability to leave earlier in the evening; however, if it stops the level of important debate that is necessary, it highlights a major weakness. I do not know how the sitting hours in the Federal Parliament work, but here we must have an understanding or agreement whereby, regardless of the debate that is in place at the time, there are no divisions during the traditional lunchbreaks. If members have been joined for lunch by guests, many of whom are very important in the overall politics of their electorates or of the State, it is as important for members to be with those guests during that lunch, as it is for them to be involved in a meaningless debate in the Chamber. That seems to me to be another area of weakness.

If possible, we must tighten up that area of working through what used to be the lunchbreak. We must decide whether to continue with an important debate, rather than stopping it at the stroke of 12 noon or 7.00 pm and/or whether, in continuing such a debate, we can at least have an understanding that divisions will not be called during what were the lunchbreaks. If we can overcome those hurdles, it will achieve what all of us are about doing - having appropriate debate on important issues of state so that, ultimately, we can pass the best legislation for the community, not simply making the hours comfortable for a number of people or changing the hours because it suits them.

When Carmen Lawrence brought in time management schemes, they seemed to work well. I do not go along with the suggestion - I do not think it does us any good as parliamentarians if it happens - that debates degenerate as the night goes on. In fact, I have found that debates degenerate - I do not know whether that is the appropriate word - when members are not personally involved in the issue being debated. On those occasions they tend to find more important things to do for their electorate while still in this building. It is not a matter of not being interested or of thinking that what is being debated is useless; it is a matter of getting our priorities right, which we do every day as members of Parliament. We cannot convince the people or ourselves that the Chamber is not occupied to capacity because some debate is worthless. Most of the time when members are not involved in debates they are away because they have more important things to do for their constituents; however, they are still working hard as members of Parliament.

I support the Government in this trial, but we should not judge its merits on whether people feel better going home at 7.00 pm or working through the traditional lunch break, but whether it benefits the standard of debate and the proper running of the Chamber so we can pass important legislation that benefits the people of Western Australia.

MR GRILL (Eyre) [10.29 am]: I support the motion. I have long advocated within Caucus that we should move to more modern sitting hours. We need to develop a much more efficient House. We are legislators, and as legislators we should be proud that we efficiently put legislation through Parliament. In many instances we allow legislation to become outdated and ineffective because there is no time either in this place or in the other place properly to debate matters that we should debate. I enjoy the vigour and thrust of parliamentary debate on matters of public interest - it should not be curtailed in any way - but as legislators we must ensure that the House is efficient, and it is far from efficient. No other House of standing in the world sits the hours that we sit or has the procedures that we have. Members of the House of Commons in London or of the Senate in the United States do not sit around for hours on end wasting time listening to highly repetitive debates. We all know that our debates are highly repetitive and, in many cases, highly unnecessary, and that is inappropriate.

We need a proper committee system to deal with legislation so that we can ensure that legislation is properly scrutinised. We do not appear to have a proper legislative system. One might start work at 8.00 am and sit through until 11.00 or 12.00 pm and sometimes even later than that. No-one can tell me that we are efficient or that we are doing justice by our constituents if we do that day in and day out. Commonwealth Houses of Parliament do not sit later than 8.00 pm. They have not sat later than 8.00 pm for a long time. They also sit through lunch hours. Under their system, divisions are taken at the end of the lunch hour if something contentious arises. They have been able to handle that. All that we need to do is see what they do.

Mr Barnett: Time management.

Mr GRILL: I am not against time management.

Mr Barnett: I know; that is the key.

Mr GRILL: In government, we will be the greatest advocates for it.

Our sitting hours are an anachronism. They were set in the days when most members of Parliament had other employment. They wandered up to the House and had a leisurely lunch. When I first came to the House, we did not even sit during the daytime. In many instances, we did not sit until late in the afternoon. That was a hangover from the days when Parliament was a club. Members wandered up here after they had done their day's work, and did a little bit of debating. In any event, most of the business of government was left to the head bureaucrats. In those days, members had their socialisation, dinner, and then further socialisation in the bar, and, when they felt good and ready, they went home. That is why the hours were set.

Mr Court: Why don't we give them a try for a while!

Mr Barnett: Where did we go wrong?

Mr GRILL: It is a different world today, unfortunately. In many ways, the gentlemanly style of those days was attractive, but they went by the board a long time ago.

Dr Gallop: I was told a story about those earlier times. At a late hour, a member was in no condition to drive home. A member of the other party offered to take him home, and on the way he discovered that the chap no longer knew where he lived, so it was somewhat difficult to get him home.

Mr GRILL: I know of an instance that happened fairly recently, but I will not go into that. Let us get into the real world. Let us start to be more efficient and work some rational hours.

Question put and passed.

TITLES VALIDATION AMENDMENT BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [10.34 am]: I move -

That the Bill now be read a second time.

On 1 July 1998 the Prime Minister announced that he had reached a compromise with Senator Harradine over the amendments to the Native Title Act. On 8 July 1998, those amendments were passed by the Senate and they came into operation federally on 30 September 1998.

The purpose of this Bill is to validate certain titles to land and waters in Western Australia which were granted in what is now termed "the intermediate period" and to confirm the effect on native title of previous land grants and public works. The intermediate period operated from 1 January 1994 until 23 December 1996, when the High Court handed down the Wik decision. During that time, many State Governments granted titles over pastoral leasehold land without complying with the requirements of the Native Title Act because it was believed that pastoral leases extinguished native title. When the Wik decision was handed down it became apparent that pastoral leases did not necessarily extinguish native title.

That meant that some of the grants issued during "the intermediate period" could potentially be invalid if they affected native title. The Federal Parliament has now passed legislation which allows for the validation of all the grants done during that period which were affected by freehold, current or historical leasehold - not including mining leases - or public works.

The amendments to the Native Title Act provide that the validation of those intermediate period acts is done by States in the same way that the Native Title Act of 1993 allowed for the validation of past acts done prior to the implementation of that Act. This Parliament passed the Titles Validation Act in 1995 in response to the Native Title Act 1993. We now seek to amend the State Act to incorporate the Federal changes. Although it is not apparent that any of the titles issued in Western Australia are invalid, we seek to provide maximum certainty, as was done previously, to those people to whom titles were granted, by passing this legislation.

A new part 2A is inserted into the Titles Validation Act to provide for the validation of intermediate period acts and the effect of that validation. Clause 12A provides that every intermediate period act, as defined in the Commonwealth Act, attributable to the State is valid and is taken always to have been valid. It reflects section 22A of the Native Title Act.

Clause 12A will ensure that any grants made by the State between 1 January 1994 and 23 December 1996 which were over land that was freehold, a lease other than a mining lease, or a public work at the time of the grant or earlier, are valid. The effect of validation is dealt with in clauses 12B to 12F. Those clauses deal with the effects of category A, B, C and D intermediate period acts as detailed in the Native Title Act. Clause 12G deals with the entitlement of native title holders to compensation for validation. Under the Titles Validation Amendment Bill, the State Government is liable for all compensation, which is to be determined in accordance with the principles established in the Native Title Act.

A new part 2B is also inserted in the Bill. This part confirms the extinguishing effect on native title by certain valid or validated acts. Clause 12H confirms that exclusive possession acts, as defined in the Native Title Act, extinguish native title. Clause 12I confirms the extinguishing effect of public works associated with exclusive possession acts and reflects section 23B(7) of the Native Title Act. Clause 12J confirms that the validation does not affect any reservations or conditions for the benefit of Aboriginal people. Clause 12K confirms that the use of land which is the subject of crown-to-crown grants is valid.

Partial extinguishment of native title by previous non-exclusive possession acts is dealt with in clause 12L. Clause 12M confirms the preservation of conditions beneficial to Aboriginal people in relation to previous non-exclusive possession acts. Clause 12N requires the State to give notice to native title parties of certain types of previous non-exclusive possession acts. Clause 12O deals with the entitlement to compensation by native title holders arising from section 23J of the Native Title Act. The new part 2C deals with the ability to validate future acts through the use of indigenous land use agreement, as provided for in section 24EB of the Native Title Act.

This Bill is essential to provide certainty to the thousands of individuals and developers who were granted titles in that period. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

NATIVE TITLE (STATE PROVISIONS) BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [10.40 am]: I move -

That the Bill be now read a second time.

I give members some background before addressing the detail of the Bill. For several years this Government has publicly stated that the commonwealth Native Title Act is an unworkable piece of legislation, and we have done everything possible to make successive Commonwealth Governments aware of this problem. Inordinate delays have occurred in the release of residential and industrial land in regional centres. There is a backlog of over 5 500 mining titles unable to be granted because of the unworkable procedures of the Native Title Act. Also, over 300 native title claims in Western Australia are unresolved, with up to 17 competing claims in a single location.

It has always been the policy of this Government that native title should be dealt with as part of the normal land and resource management process, which has always been the responsibility of the State Government and ultimately this Parliament. However, this Government was not prepared to take on the responsibility for native title while the federal Native Title Act remained fundamentally flawed and imposed an unworkable regime on any complementary state-based system.

It has taken much longer than we had hoped to have the federal legislation amended. However, in July this year the Federal Parliament finally passed the Native Title Amendment Act. The Act, proclaimed on 30 September, now provides a basis for State Parliament to put in place a comprehensive native title regime that will be administered by a state Native Title Commission. The commission will have responsibility for the administration of native title claims within Western Australia as well as the important task of registering indigenous land use agreements. The commission will also have administrative and determinative powers to deal with objections by native title parties to future land, mining and petroleum grants by the State Government.

The Western Australian Native Title (State Provisions) Bill has been drafted in accordance with the relevant provisions of the amended Native Title Act. Parts of the Bill will require a determination by the commonwealth minister before the Bill can be functional, and the minister's determination must also be laid before both Houses of the Commonwealth Parliament.

The Bill aims to establish a state Native Title Commission, which will be an equivalent body under section 207B of the Native Title Act. The commission would also take on the role of recognised body in relation to future acts. In practice, the commission will take over the role of the National Native Title Tribunal in Western Australia. The commission will function

as an impartial facilitator in registering native title claims and helping claims to be resolved by negotiation. The commission will also play a role in resolving future acts.

The Bill will enable the State Government to replace the right to negotiate on pastoral leases and certain reserves with a prescribed regime of consultation. The right to negotiate will remain on vacant crown land and Aboriginal reserves, and a new process is to be applied for consultation for infrastructure titles and developments within towns and cities.

I now deal with the clauses of the Bill. First, the Bill largely relies on the definitions used in the Native Title Act to ensure consistency. Certain provisions regarding the proclamation of the Bill are restricted by the need to have certain sections approved by the commonwealth minister. As a result, commencement of parts 3 and 4, division 2 of part 6 and proposed section 8.2 cannot occur until determinations under the Native Title Act come into force.

Part 2 of the Bill allows the state commission to be nominated as a recognised body for the purpose of carrying out functions under the right to negotiate. This nomination occurs under section 207A of the Native Title Act. Part 2 also allows the commission to be nominated as an equivalent state body under section 207B of the Native Title Act for the purpose of performing specified functions of the National Native Title Tribunal or the registrar. It allows for the making of regulations for transitional provisions in connection with the commission's becoming an equivalent body and an arbitral body. The State is also able to agree to a delegation under section 199F of the Native Title Act in regard to the registration of indigenous land use agreements.

Part 3 of the Bill provides consultation procedures for "alternative provision areas" in accordance with section 43A of the Native Title Act. The provisions deal with future acts which relate to an area of land or waters that is an "alternative provision area"; that is, non-exclusive land tenure such as pastoral leases and some crown reserves. Areas which are the subject of a grant for the use and benefit of Aboriginal persons where native title has not been extinguished are excluded from the operation of this part under clause 3.1.

Part 3 acts can be validly done only where no objection is lodged to the act, all objections are withdrawn or dismissed, an agreement is made, a recommendation made by the commission to allow the act to be done is not overruled, or a recommendation by the commission that the act is not to be done is overruled by a state minister. A provision allows acts which would ordinarily fall under part 3 to be dealt with under part 4 on request from the applicant. This provision is intended to allow applications which transverse both parts 3 and 4 areas to be dealt with under part 4 to avoid the need for multiple processes for a single title. Before the act can be done, there must be notification to registered bodies corporate, registered native title claimants and any representative bodies in accordance with the Native Title Act. The notices must nominate a closing date for objections which must be at least three months after the notice is given.

Notice is to be given by the government party in the case of certain compulsory acquisitions or persons prescribed by regulation in other cases. Regulations can be made about the giving of notice. Any registered body corporate or native title claimant may object to the act on the grounds that the doing of the act would affect the person's registered native title rights and interests in relation to the land or waters to which the act relates. The minister has discretion to extend the closing date for objections in cases where there are exceptional circumstances.

If the objection is not made by a registered native title body corporate or a registered claimant, or the rights and interests claimed to be affected are not registered rights and interests of the objector, the Native Title Commission has the power to dismiss the objection. The Bill defines the consultation parties as being the objector/s and the proponent in the case of mining, or the objector and the government party in the case of compulsory acquisitions. The consultation parties are required to consult about minimising the impact of the act on registered native title rights and interests, including about access to the land and waters or the way in which anything authorised by the act may be done.

Provisions allow for the commission to mediate if requested to do so by any of the parties. They provide the commission with a power to request the parties to meet together if either of the parties is not making sufficient attempts to consult. Provisions ensure that applications to do an act can be withdrawn and that the parties will be notified. An objection may also be withdrawn by the objector and any agreements may be lodged with the commission.

If after four months, the objection/s are not withdrawn and no agreement resolving the issues on which the objection is based has been lodged, the commission may give notice that it intends to hear and determine the objection. The commission may also hear an objection at the request of a consultation party prior to the end of the consultation period as long as the commission is satisfied that reasonable endeavours have been made to resolve the issues and that further consultation is not likely to resolve the matter. The commission must attempt to make a determination within four months of the notice and the period may be extended at the minister's discretion. Consultation between the parties may continue while the commission is hearing the matter. The commission is able to make a recommendation that the act may be done, may be done subject to conditions or may not be done. The commission must not determine that the objector is entitled to payments by reference to profits, income or things produced. The minister may overrule the commission's determination in the interests of the State after consultation with the minister responsible for indigenous affairs and taking into account any recommendation or advice from that minister.

Part 4 of the Bill deals with provisions for future acts in areas other than alternative provision areas; that is, land which has always been vacant crown land and Aboriginal land excluded from part 3. Provisions allow for part 4 acts to be validly done only where no objection to the act is lodged, all objections are withdrawn or dismissed, an agreement is made, a recommendation made by the commission to allow the act to be done is not overruled, or a recommendation by the commission that the act is not to be done is overruled by a state minister.

Notification of the act must be made to the public and by written notice to registered bodies corporate, registered native title claimants and any representative bodies. The notices must nominate a closing date for objections which must be at least three months after the notice is given. The notice may relate to two or more acts and may relate to project acts.

Any registered body corporate or registered native title claimant may object on the grounds that the doing of the act would affect the person's registered native title rights and interests in relation to land to which the act relates. The objection must state the manner in which the act would affect the registered native title rights and interests. The minister has the discretion to extend the closing date for objections in exceptional circumstances. The commission has the power to dismiss an objection if it is not made by a registered native title body corporate or a registered claimant, or the rights and interests claimed to be affected are not registered rights and interests of the objector.

The negotiation parties are the objector/s and the proponent, who may be the government party. The negotiation parties are required to negotiate in good faith with a view to the objections being withdrawn or obtaining the agreement of the objectors to the doing of the act, which may be subject to conditions.

The provisions allow for the commission to mediate if requested to do so by any of the parties and to cause the parties to meet together if insufficient progress is being made toward reaching an agreement.

The objection may be withdrawn by the objector, and a copy of any agreement made may be given to the commission. The agreement will be accepted by the commission if it has been made by the appropriate parties, executed properly, and no party has alleged and proved that the agreement was not entered into freely and voluntarily.

Where any objection/s are not withdrawn within four months of the closing date, or if no agreement has been lodged, the commission may give notice that it intends to hear and determine the objection. The commission must attempt to make a determination within six months of the notice, and the period may be extended at the minister's discretion. The commission may determine that the act may be done, may be done subject to conditions, or must not be done. The commission must not determine that the objector is entitled to a payment worked out by reference to income, profit or things produced. The criteria to be taken into consideration in making a determination are listed in clause 4.47 of the Bill and reflect section 39 of the Native Title Act.

The minister is able to make a determination where the commission is not likely to do so within a reasonable time frame, if it is in the State's interest to do so, and after consultation with the commonwealth minister. Any such determination must be laid before both Houses of State Parliament. The minister may also overrule a determination of the commission within two months of the decision if it is in the interests of the State to do so.

Part 5 of the Bill implements a regime for the operation of section 24MD(6B) of the Native Title Act. The provisions apply to certain permissible lease, etc, renewals, compulsory acquisitions wholly within a town or city or for infrastructure purposes, and the creation or variation of a right to mine for infrastructure associated with mining. Acts can be validly done under part 5 where no objection is lodged to the act, all objections are withdrawn or dismissed, an agreement is made, a recommendation made by the commission to allow the act to be done is not overruled, or a recommendation by the commission that the act is not to be done is overruled by a state minister. Notification must be given to registered bodies corporate, registered native title claimants and representative bodies. The notice may relate to more than one act, and the closing date for objections must be at least two months after the notification is given.

Registered native title bodies corporate and registered native title claimants may object to the act on the grounds that it will affect their registered native title rights and interests in relation to the area the subject of the act. The commission may dismiss an objection if it is not made by a registered native title body corporate or a registered claimant, or if the rights and interests claimed to be affected are not registered rights and interests of the objector.

The consultation parties are defined as being the objector and either the proponent, in the case of mining titles, or the government party, in the case of compulsory acquisitions - see clause 5.18. Under clause 5.20, the consultation is to be about minimising the impact of the act on registered native title rights and interests. The objector may withdraw the objection, and any agreement resolving the objection may be lodged with the commission. The commission may hear and determine objections if the matter has not been resolved four months after the closing date. The commission may hear the objection earlier if a consultation party requests. The commission must determine the objection within four months of being asked to do so and may recommend that the act be done, the act be done subject to conditions, or the act must not be done. The minister is able to overrule a recommendation of the commission if it is in the interest of the State, and after first consulting with the federal minister for indigenous affairs and taking into account any advice given by that minister.

Part 6 provides for the commission to determine, on application, compensation in relation to future acts other than compulsory acquisitions which are already covered under the Land Administration Act. An entitlement to compensation is created for native title holders in relation to part 3, part 4 or part 5 acts where there is no entitlement to compensation under another written law. The commission is able to determine compensation, and the determination is to be in accordance with sections 49, 51 and 51A of the Native Title Act. The Bill also contains provisions in relation to the recovery of compensation and the holding of compensation in trust. The provisions also deal with the payment of compensation from the trust, non-monetary compensation, situations where no compensation is payable, and the jurisdiction of the commission.

Part 7 establishes a Native Title Commission to exercise functions under sections 199F, 207A and 207B of the Native Title Act, and to provide mediation services, to compile and maintain a database of information, and to give assistance in connection with applications to the Federal Court. The commission is obliged to perform its functions fairly, justly and expeditiously and to ensure that its procedures are informal and accessible. The commission is also able to take into account the cultural and customary concerns of Aboriginal people.

The commission will comprise a full-time chief commissioner and a number of other commissioners who may be employed on a full or part-time basis. In compliance with the Native Title Act, a member of the commission must have been enrolled for at least five years as a legal practitioner of the Supreme Court of Western Australia or another State or Territory, or the High Court, or have special knowledge in relation to Aboriginal people. The Bill also allows the appointment of members who have knowledge in relation to land and resource management or dispute resolution. One member of the National Native Title Tribunal must also be on the commission.

The commission will hold hearings in general accordance with the provisions of section 154 of the Native Title Act. The Bill contains provisions relating to matters such as offences, confidentiality, conflict of interest and use of interpreters, which generally conform with those provisions in the Native Title Act. The commission will also have an executive director and other staff appointed under normal public service conditions to undertake the administrative functions of the commission. Part 8 allows for the making of regulations and contains consequential amendments.

Before concluding, it must be said the processes covered in this legislation, designed to comply with the federal legislation, are incredibly complex. The Government is totally committed to making the processes workable, although we fully appreciate that in practice that will be a difficult task. It represents a compromise on a compromise.

This Bill is critical to ensure that Western Australia has a workable land and resource management system in place which appropriately recognises the native title rights and interests of Aboriginal people. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ACTS AMENDMENT (LAND ADMINISTRATION, MINING AND PETROLEUM) BILL

Second Reading

MR PRINCE (Albany - Minister for Police) [10.58 am]: I move -

That the Bill be now read a second time.

With the proclamation of the amendments to the commonwealth Native Title Act on 30 September 1998, Western Australia is now able to establish its own regime to deal with native title issues. The establishment of this regime is the subject of the Native Title (State Provisions) Bill. To facilitate the proposals within that Bill, consequential amendments are required for the Land Administration Act, the Mining Act, the Petroleum Act and the Petroleum (Submerged Lands) Act.

For the Land Administration Act, this Bill seeks amendments relating to part 9 dealing with the taking of interests in land. The Bill also contains other amendments to the Land Administration Act which have been identified as being necessary to improve the procedures for dealing with native title and Aboriginal land issues.

Section 83 deals with the granting of freehold and leases to Aboriginal persons. Clause 5 of the Bill seeks to remove any doubt that such tenure can be granted to bodies corporate representing Aboriginal people as well as individual Aboriginal persons.

Section 152 outlines the objective of parts 9 and 10 dealing with compulsory acquisition of interests in land and compensation. It is proposed to amend this section to reflect amendments to the Native Title Act. To accommodate the provisions within the proposed Native Title (State Provisions) Act, the inclusion of a new section 152A is also sought.

Sections 153 and 154 outline the procedure for the giving of notices where native title rights and interests are intended to be taken. It is proposed to replace these sections with provisions consistent with the new procedures now contained within the Native Title Act.

It is also proposed to repeal Section 155 and replace it with a provision which allows the extinguishment of native title when compulsorily acquired but only to the extent allowed under the Native Title Act.

Section 156 deals with compensation, and the proposed amendment to subsection (3) makes it clear that compensation will be awarded under the provisions of the proposed Native Title (State Provisions) Act.

Section 158 deals with the refund of compensation if the purpose of a taking is cancelled. Subsection (2) requires native title holders to be notified of such a cancellation. The proposed amendment seeks to ensure that notification is in accordance with the Native Title Act.

Subsection (2) of Section 165 allows the minister to take interests in land and grant land for development to achieve a social and economic benefit of the State. The proposed amendment allows the taking of land for use or development, or both.

Amendments to section 167 are proposed to merely reflect the provisions of the Native Title Act and the proposed Native Title (State Provisions) Bill.

Section 170 in part relates to the time a notice of intention has effect. However, no provision exists within the Land Administration Act allowing the minister to extend such notices whether it be for either native title or any other purposes. The proposed amendments to this section seek to rectify the situation.

Section 177 deals with procedures for the final taking of interests in land. It is proposed to amend this section to allow the taking to proceed without the usual statutory approvals for development yet being in place. Not all these statutory approvals can be gained until the acquiring authority holds an interest in the land. The proposed amendments also seek to provide for the publishing in a daily newspaper of an extract of the compulsory acquisition notification known as a notice to take. These amendments essentially aim to streamline administrative matters relating to general matters of compulsory acquisition.

The Bill also contains amendments to the Mining Act, the Petroleum Act and the Petroleum (Submerged Lands) Registration Fees Act. These amendments shift the compensation liability of future acts onto the holder of the mining or petroleum title.

The Native Title Act provides that when compensation is payable to native title holders, it shall be paid by the State unless the liability has been passed on to another party. This amendment will provide a statutory basis for passing that liability onto title holders.

The new section provides that when compensation is payable to native title holders, the person liable to pay that compensation is either the applicant for or the holder of the mining or petroleum title at the time the compensation is to be paid or when a decision is made that compensation is payable. When the title has been surrendered or forfeited or has expired, the last holder will be liable for compensation.

This Bill contains amendments which are essential to ensure that the land and resource development of Western Australia can function efficiently and consistently in light of the changes to the management of native title. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

PARKS AND RESERVES AMENDMENT BILL

Second Reading

MR SHAVE (Alfred Cove - Minister for Lands) [11.01 am]: I move -

That the Bill be now read a second time.

The Parks and Reserves Act 1895 provides for the appointment of boards to control and manage land which is reserved under part 4 of the Land Administration Act 1997 - previously part III of the Land Act 1933. Boards have been appointed to administer a wide variety of reserves. For example, Kings Park is managed by a board appointed under this Act. The Kings Park Board oversees a range of commercial, environmental and conservation activities. Another example is the reserve at Woodman Point. It is administered by the Recreation Camp and Reserves Board, which manages this and various other reserves to provide recreational facilities for the benefit of the public.

In its present form the Parks and Reserves Act cannot be used to appoint a board to control and manage reserves if they were not created under the Land Act. It is undesirable to have a deficiency of this kind in the legislation. Situations can arise for a variety of reasons, which would be best managed by the appointment of a board under the Parks and Reserves Act.

To remedy the deficiency the Bill will enable the appointment of boards to manage reserves regardless of which Act of Parliament created them. This will assist the Government in its program of efficient management of crown land in the public interest.

It has also been noted that there are some inconsistencies in drafting in the Parks and Reserves Act. Several different kinds of terminology have been used in describing land to which it applies. The amendments are also aimed at standardising the terminology to make the Act clearer and to improve its consistency. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL

Second Reading

MR SHAVE (Alfred Cove - Minister for Lands) [11.04 am]: I move -

That the Bill be now read a second time.

When it was enacted in June 1992, the Western Australian Land Authority Act provided for a review of the operation and effectiveness of the Act to be undertaken five years after it came into operation. In addition, the Act contained a sunset clause bringing the operation of the Act to an end on 31 December 1997. This date was later extended by Parliament to 31 December 1998.

As members may recall, the review of the Act has now been undertaken and I laid the ministerial review findings before this House on 24 June 1998. The ministerial review findings found an ongoing need for most of the existing functions of the Western Australian Land Authority to be retained by government and that these should be undertaken by the authority under revised legislation. In other words, the Act and the authority should continue in existence with revised powers and functions to give effect to the ministerial review findings. The Western Australian Land Authority Amendment Bill gives effect to those findings and to improve some of the machinery and operational provisions of the Act.

Object and Functions: The objects of the Act and functions of the authority in the Act have been amended to reflect the focus on achieving statewide strategic outcomes for government, as contained in the ministerial review findings. I will now explain what these strategic outcomes, and therefore the revised objects and functions, are -

Firstly, the authority is to provide industrial land and associated infrastructure development for resource, special, heavy and general industries. This will be undertaken in collaboration and consultation with the Department of Commerce and Trade, the Department of Resources Development and the Ministry for Planning to facilitate the long-term economic development and growth of the State.

Secondly, the authority will facilitate the undertaking of major or complicated land and associated infrastructure development projects, both within the metropolitan area and in regional areas. The Alkimos master planning and development of the Mandurah ocean marina are examples of these types of projects.

Thirdly, the authority will facilitate urban renewal or rejuvenation and this will result in a desirable broader economic and social outcome, such as the redevelopment of the former industrial site in Bunbury, now known as Marlston Hill.

The authority will also act as the primary agency for the disposal of surplus government and public authority land to maximize the return to the State. This adopts a whole-of-government approach, so that the authority's considerable expertise and experience in land development and sales will be used to allow other government departments and public authorities to maximise the return on the disposal of land surplus to their requirements. As the infrastructure development phase of the Joondalup Centre project is nearing completion, the authority's function has been amended to require completion of this project.

Finally, the authority is to reduce its role in land banking and the provision of residential land, as the review found that this can be effectively undertaken by the private sector. The disposal of surplus residential land holdings will be coordinated with Homeswest. This is effectively a rationalisation of services to eliminate duplication and the overlap between agencies. Homeswest assumes full responsibility for the former function of providing subdivided residential land for first home buyers and the lower end of the market. The Department of Land Administration will continue to provide subdivided land in regional townsites. The authority will retain responsibility for the development of crown land in major regional towns or in complicated specific projects. The authority may undertake any of its functions either as a land owner in its own right, as a project manager or as a consultant.

Commercial Principles: The commercial principles under which the board of the authority is to act are amended to give greater certainty and clarity to the board members and others dealing with the authority. These commercial principles require the authority to act in a cost-efficient manner, to attempt to achieve or surpass its long-term financial targets and not to undertake any individual project that is not expected to meet an agreed benchmark rate of return. These commercial principles seek to balance the ministerial review findings that whilst the authority must operate on sound commercial principles, it must be able to undertake projects that are strategic in terms of their economic and social benefit to the State but that may have a weakened, negligible or negative financial outcome.

Operation of Authority: The amendments provide for the authority to prepare an annual statement of corporate intent and a strategic development plan, which are to be approved by the Minister for Lands with the Treasurer's agreement. It is intended that the regulations dealing with these documents will provide for the statement of corporate intent to be tabled in Parliament. These documents will provide greater accountability and transparency of the authority's operations to the Government, and will ensure that its operations are congruent with government policy. In particular they will provide a basis

for long-term operational planning for the authority and establish the benchmark rate of return against which its projects are to be measured. These amendments will also give effect to competitive neutrality reforms and underpin the effective operation by the authority in a market environment. These documents will also provide the mechanism, through community service obligation arrangements with the Government, by which the authority will be able to undertake those financially undesirable, but economically and socially desirable projects I mentioned earlier.

In light of the ministerial review findings tabled in this House, the amendments now being considered by this House, and the provision for long-term planning and monitoring of the authority's operations through these corporate documents, it is no longer appropriate for the Act to be subject to sunset and review clauses. These clauses have been removed in these amendments.

Competition Policy: These amendments largely give effect to the competitive neutrality findings in the ministerial review findings and the Government's obligations under the competition principles agreement with the Commonwealth Government. The authority's exemption from state rates, taxes and charges has now been removed. However, it remains exempt from local government rates except where it owns land jointly with another non-government organisation or leases or lets out the land. Where it is exempt from paying local government rates, the authority is to pay a rate equivalent amount to Treasury, in addition to its existing obligation to pay a tax equivalent payment for commonwealth taxes under the State Enterprises (Commonwealth Tax Equivalents) Act. Scope for the payment of dividends is also provided for in the Bill. The powers to lodge memorials and make by-laws have also been repealed to remove the authority's competitive advantage in these areas and to implement competitive neutrality reforms.

Conclusion: In conclusion, the Western Australian Land Authority Amendment Bill implements the extensive review of the functions and operations of the Western Australian Land Authority, contained in the ministerial review findings tabled in this House on 24 June. These amendments continue the authority's important role in providing land for the social and economic needs of the State, allow the authority's expertise in the land industry to be utilised to maximise the return to the State on the disposal of surplus Government assets and implement significant competitive neutrality reforms. I commend the Bill to the members of this House.

Debate adjourned, on motion by Mr Cunningham.

PORT AUTHORITIES BILL

Cognate Debate

On motion by Mr Omodei (Minister for Local Government), resolved -

> That the Port Authorities Bill, the Port Authorities (Consequential Provisions) Bill, and the Maritime Fees and Charges (Taxing) Bill be considered cognately, and that the Port Authorities Bill be the principal Bill.

Second Reading

Resumed from 18 June.

MS MacTIERNAN (Armadale) [11.14 am]: The Opposition supports the major thrust and the underlying principle of this legislation, which is to enact legislation which reflects the realities in Western Australian ports, and to replace antiquated legislation with legislation which is designed to stimulate the commercial activities of the ports, to facilitate those commercial activities and to provide a sounder base for accountability in an environment in which we are encouraging greater flexibility. The Opposition also supports the decision by the Government to commercialise rather than corporatise the ports. With commercialisation the minister retains power to direct a port authority. That is an important control for government to retain, because from time to time larger considerations need to be taken into account in the ports' activities. A port authority that views its port facility at a local level might not find it desirable to take a course of action to make way for a particular business development, although if it were viewed more broadly from a regional or even statewide perspective it might be important that the port take on a particular role.

The Opposition supports the underlying principle that there be ministerial direction. However, the legislation contains some limitations. It is ironic that legislation which is designed to improve the accountability of port authorities, in many respects, will do the opposite. For example, it removes from any real parliamentary scrutiny the performance and conduct of those port authorities. The Opposition will move amendments that seek to deal with that.

The Opposition will make some general points and move some amendments that would preclude port authorities embarking on what is basically an industrial relations campaign that has nothing to do with the efficient management of the ports. I will use this debate to make some general reflections on the direction of port administration in this State over the past couple of years and express the Opposition's grave concern that the efficient management of ports has played second fiddle to the prosecution of industrial relations agendas of successive governments and National Party ministers. The degree to which the coalition Government has been seeking to take on the Maritime Union of Australia and to embark on what it calls waterfront reform has been extraordinary. That is surprising when one considers what has been achieved since the late 1980s

when the federal Labor Government put in place waterfront reform around this country. The work force has come down from about 10 000 to 3 500. Every port in Western Australia has reduced its costs and improved its productivity dramatically. The biggest success story has been the performance in the regional ports. The introduction of the integrated labour force program has been a magnificent success. That program has resulted in multiskilling within the ports, so there is no separation between the stevedoring and maintenance staff. For example, in Bunbury the woman who works on reception is also able to moor a ship or use an oxyacetylene welder. The finance director is also able to engage in a range of maintenance tasks when there is a demand for that activity.

Mr Osborne: You have been reading my maiden speech.

Ms MacTIERNAN: The member probably read the speech I made in the upper House prior to that. I am pleased that Lord Osborne has recognised the performance of his constituents. Being a reasonable man, I presume that he also appreciates that that has been a direct result of the reforms put in place by the Labor Government in the late 1980s.

We have an extraordinary situation. We have had major reform on the waterfront and as a result of that we have seen innovative work practices implemented around Western Australia, particularly in regional ports, costs to port users rapidly declining and productivity increases. However, this Government has embarked consistently on a process to cause disruption and dislocation at ports in Western Australia. It does not make sense. Each of these ports is now operating in the black - they were in the red previously. They are introducing waterfront reform and consumers are benefiting. In many instances port authorities have been able to squirrel away substantial sums of money that they hope to use to undertake extensive redevelopment programs. However, we have an absolutely pathological desire on the part of this Government to cause mayhem and grief on the waterfront.

We saw that process with the BAAC dispute and the attempt to improperly install a Buckeridge company as the supplier of stevedoring services to Stateships. Of course, the big attraction in having Buckeridge on the wharf was that he was not only a major donor to the Liberal and National Parties but he was also prepared to engage all his staff as contractors, not employees. As such, they would not be subject to the collective bargaining process that has been in place on the wharves for over 50 years. That ended in a debacle and the State was sued for $1m. Buckeridge left the wharf with $1m, which he received from the taxpayers courtesy of then Minister Charlton. We lost Stateships and we are now heavily subsidising a private operator to sail to the north west of the State and provide a service that is nowhere near as comprehensive as the service previously provided.

We then saw this Government's very eager participation in the disgraceful dispute orchestrated by Peter Reith and his friends in Patricks The Australian Stevedore. Again, that resulted in a very negative outcome for the State. Millions of dollars of the Police budget were diverted to cover overtime costs involved in overseeing this manufactured mayhem on the waterfront.

Mr Thomas: Thuggery!

Ms MacTIERNAN: Yes. Of course, it resulted in huge losses for the port users tied up with Patricks. Again, at the end of the day, the company had to back off. The action by Patricks in conspiracy with the Government was deemed to be illegal by the Federal Court and the workers were reinstated.

Not content with those forays at Fremantle, we saw the minister involved in another bizarre situation: He decided we would have a new port. He invited expressions of interest for an entirely new port in the Kwinana naval base area. That was particularly puzzling because six months prior to that a major review of port needs was undertaken by the Government. The resulting report concluded that we did not need another port for about 20 years - the existing capacity of Fremantle would suffice for that period. On the basis of that ongoing facility at Fremantle, many private companies invested huge amounts of money developing their facilities at that site. Then, without any preparation or consultation with industry players, suddenly we saw a U-turn in government policy in relation to the future of the Fremantle Port Authority and we will now have an entirely new port. The new port had nothing to do with improving costs. Then Minister Charlton said the advantage of the move was that it would enable the Government to put in place an entirely new industrial relations regime.

It is interesting to look at parts of the tender document. Members will recall that the minister refused to make the expression of interest document available to the general public or to this House. Indeed, if one wanted a copy, one had to fork out $1 000. So much for open and accountable government!

One of the things which the Government was keen to conceal and which was contained in that document was a provision that to have any chance of success in obtaining the contract, a tenderer must have undertaken to have a direct employee-employer relationship; that is, the successful tenderer must undertake to employ staff on workplace or subcontract agreements. Any tenderer who was prepared to employ people under an award or to negotiate an enterprise bargain agreement or any sort of collective agreement was precluded from participating in this port process.

We have this extraordinary situation of a Government that talks about choice in industrial relations not only not being prepared to give choice to the employees but also denying it to the employers on the waterfront. That is consistent with the policy that it has begun to adopt in public sector employment generally. It is an extraordinary proposition that the basis upon

which a tenderer would rise or fall in the development of a multi-million dollar port facility would be whether it had workplace agreements or employed people on an award. Even if the tenderer could demonstrate that the enterprise was more efficient or that the award would offer greater flexibility, it would be precluded. It was a sine qua non that unless the tenderer had workplace agreements it would not be able to participate in this process. What is driving the Government's agenda in port management? It is anything other than providing port users with efficient, cost-effective ports.

There is a number of other interesting examples. Dampier has a bulk handling port and a public port. For years the public port has offered stevedoring services provided primarily, although not exclusively, by P & O Australia Ltd.

P&O was not flavour of the month with the Government because it had not participated in the Patrick's dispute. It continued to engage staff and work in a more or less cooperative manner with the union. It was clearly marked for special treatment by the Government. When Buckeridge managed to get his $1m payout from Eric Charlton, courtesy of the fiasco on the Fremantle wharf, that money was used to set up Western Stevedores, a company that was notionally owned by John Perraldini who admitted that his financial backer was none other than Len Buckeridge. With the taxpayers' dollars, that new outfit was set up and moved to Dampier, which it had every right to do, where it set up a rival operation to P&O. I have spoken to many of the users on the Dampier port who believe a positive outcome eventuated from having Western Stevedores enter the wharf. It caused the P&O stevedoring operation with which they were generally satisfied to lift its game and to be more realistic about the way in which it did its business.

A seemingly worthwhile competitive model was operating on the Dampier wharf. However, we had not punished P&O and the people were operating under awards and collective agreements. What did the Government then decide to do? It acknowledged that competition existed on the wharf and that it was working well. However, it did not want that; it was not about competition. The Government indicated that what was driving its port policy had nothing to do with efficiency or reducing costs; it had everything to do with smashing the Maritime Union of Australia, so it went out to tender and said that competition would not exist on the Dampier public wharf any more; there would be a monopoly and therefore the tender would go out to one company. It was written into the tender specifications that preference would be given to an outfit that had a particular industrial relations arrangement. Not surprisingly the Buckeridge Western Stevedores company won the contract.

Mr Kierath interjected.

Ms MacTIERNAN: I have not heard one rational defence by any of the free marketeers on the other side of the House who can tell us why, when two companies are operating side by side in competition, creating an environment -

Mr Bloffwitch interjected.

Ms MacTIERNAN: I will give the member for Geraldton an opportunity to respond because I am fascinated to hear his response. I want to make sure members opposite get the picture: Two private enterprise companies are competing and improving the services to the port. Costs are being reduced and the port users are happy. Why move to a monopoly? What is the justification for removing a competitive environment and changing to a monopoly? I am inviting the "vegie patch" who were trying to get in before to make a comment.

Mr Johnson: You are being very rude.

Ms MacTIERNAN: I am interested in a response.

Mr Johnson: I would not say that about you.

Ms MacTIERNAN: I am inviting the esteemed backbench to make a comment.

Mr Johnson interjected.

Ms MacTIERNAN: I rest my case. When given the opportunity to explain the inexplicable they were unable to do so.

Mr Omodei: You should relate your comments to the Bill. All of the ports will have to act commercially and any directions given by the minister will have to be tabled in the Parliament. I know it makes you feel good to refer back to these issues but you should be talking about the legislation.

Ms MacTIERNAN: That is an interesting point. In responding to this I take the opportunity to deal with that precise issue. I refer to the degree to which, particularly but not exclusively in the Transport portfolio, the former minister effected policy and decision making by various agencies without using the formal process of a ministerial direction. The minister's staff telephoned agencies such as Main Roads and in no uncertain terms told them what, to use their words, "the old man wanted"; for example, the Australind bypass was opened and a strategy put in place somewhere else. The public servants did it.

I have no problem with ministerial direction but a question of which you are aware, Madam Acting Speaker (Mrs Holmes), is when is a direction a direction, or when do ministers quite improperly use their influence over their public servants in an environment in which little security of tenure exists for senior public servants. As the Auditor General said yesterday, they

are so scared of losing their jobs they will not even take annual holidays. As a result billions of dollars worth of leave entitlements are accruing. In that environment the backbone of many of our senior public servants is not there to resist the minister's putting pressure on public servants to give effect to directions without the minister's having to take the political responsibility for them. Given that the principle that is being enshrined in this Bill is one of commercialism rather than corporatism which the Labor Party supports, it is important we talk about the effects of ministerial influence on the way port policy is driven. It is a very live issue as we speak. Again, at the Geraldton port, under very strong government influence and direction -

Mr Bloffwitch: The board made that decision, not the government; let us get it clear. It is an independent board.

Ms MacTIERNAN: Just as the Western Australian Tourism Commission decided to give Global Dance $400 000 of taxpayers' money to engage in a complete fantasy?

The ACTING SPEAKER (Mrs Holmes): Will the member for Armadale kindly address the Bill.

Mr Bloffwitch: That is a long bow to draw.

Ms MacTIERNAN: The member for Geraldton raises another interesting point. I will make a discursion from my main line of argument to address that because it is relevant to this Bill; that is, the appointments to the board. Those appointments have always been made by government and we do not resile from that. However, on many of the port authority boards around this State people with any expertise in shipping or transport have been replaced by farmers - an inordinate number of farmers appear to have received preferment - and right-wing "industrial relations experts".

Mr Prince: What do you mean by experts in shipping?

Mr Bloffwitch: Who are the right-wing members on that board?

Ms MacTIERNAN: I am not talking about the Geraldton Port Authority I am talking about ports generally.

Mr Prince: Are these people from the MUA or are you talking about people who are actually employed?

Ms MacTIERNAN: It is interesting that the minister has not recognised that employees are legitimate stakeholders. This is a fundamental difference -

Mr Prince: I am asking you a question. Are you looking at shipping agents or is it people who are part of the work force? What are you saying?

Ms MacTIERNAN: I am referring to someone like Tony Carter who was taken off the Fremantle Port Authority. He was the former Chairman-Managing Director of Jebsens International Pty Ltd, a member of the port operations task force and the Chamber of Shipping. His term was not renewed. When his term was not renewed, major dissatisfaction was expressed within the Fremantle Port Authority and from industry stakeholders because there was no longer any expertise in shipping on the board. Who replaced him? A person of the calibre of Mr Carter was replaced with Russell Allen. Who is Russell Allen? He is a lawyer and an industrial relations specialist. He has been the architect of the Government's industrial relations policy. Therefore, we get rid of people who know something about shipping. We are not interested in that because port policy in this State is not about shipping. Port policy in this State is not about creating an efficient port for use. It is about fulfilling a National Party wet dream to get rid of the MUA.

Mr Bloffwitch: Do you think the board is there to manage it?

Ms MacTIERNAN: Russell Allen is a member of the board. Ron Aitkenhead and Ernie Strahan, who are farmers, are also members of the board. The Government has removed from the board those people who know anything about shipping and has replaced them with farmers and right-wing IR specialists! That is the sort of thing that is happening and it is a problem. There are two levels to this problem that we have identified: Firstly, the ideological view taken by the Government that unions representing employees are not legitimate stakeholders in the operation of ports. That is complete nonsense.

Mr Bloffwitch: You are saying that it is the board that manages the port authority. It is not the board that manages the port authority; that is the job of the CEO. The board is there for policy and setting direction. IR would be something about which some of your members should be looking to have some working knowledge within the board level.

Ms MacTIERNAN: People who know anything about shipping are removed from the board and replaced with farmers and right-wing IR specialists. Interestingly, we diverted to this issue of the calibre of people who have been put on these boards. A number of failed National Party candidates have been put on boards. We do not say that just because they have an unsuccessful political history, they are barred. I am sure that failed Labor Party members have been placed on boards. The overall direction of the appointments indicate that, in many instances, the boards have suffered because they have been loaded up with people who know nothing about the area, but have another issue to prosecute.

Mr Cowan: Absolute nonsense.

Ms MacTIERNAN: It is not nonsense. It is demonstrated.

Mr Cowan: You should be looking at the performance of the respective authorities and their ability to handle freight and win a greater volume of freight. In every case, the performance of those ports has improved and their freight numbers and volumes have expanded. While you might be dismissive in your inimitable way, the fact is that in the main those port authorities, despite their composition or because of their composition, have been performing very well. You could at least acknowledge that. Be big enough to acknowledge that.

Ms MacTIERNAN: If the Deputy Premier had been in the Chamber at the beginning of the debate, he would have heard me say just that.

Mr Cowan: I regret that the modern telecommunications of this building allowed me to hear you mumbling about something like that, but it was not very gracious.

Ms MacTIERNAN: I thank the Deputy Premier very much for that. I acknowledged from the outset that, since the late 1980s, we had a regime of continuing improvement. That is what gave the lie to the direction of the port policy which has been embarked on by this Government; that is, a port policy in which the overriding, overwhelming and overarching direction was determined by industrial relations considerations. The member for Geraldton is in the Chamber and he will be very interested in the Geraldton Port Authority. The member for Geraldton told us that the board made the decision that it wanted to contract out the services for the port.

Mr Bloffwitch: You don't think they should be able to do that exercise?

Ms MacTIERNAN: Can the member for Geraldton explain whether it is just pure coincidence that the same clause, which appeared in the tender documents for the new "fantasy" port at the Kwinana Naval Base - the James Point Port - indicating that a business should not bother tendering for those services unless a direct employee-employer relationship with workers was in place, was included in the specifications for the Geraldton Port Authority. We have heard from the member for Geraldton that this is not just a question of government policy. It is pure accident that these extraordinary clauses, which have never been seen anywhere else until they first appeared in the Kwinana port document, have suddenly popped up all over the State. They have popped up in Geraldton. Is the member for Geraldton able to enlighten us?

Mr Bloffwitch: A positive move.

Ms MacTIERNAN: Was it pure coincidence?

Mr Bloffwitch: I would hope that it was a master plan and that the Geraldton Port Authority is trying to have more efficiency on the wharves.

Ms MacTIERNAN: I am sure that the member for Geraldton, who is renowned for keeping his finger on the pulse in his home town, also knows that the Maritime Union of Australia then quite properly took action against the Geraldton Port Authority under the Trade Practices Act for engaging in restrictive trade practices. That matter went to the Federal Court. At that point, the Geraldton Port Authority realised the complete enormity and outrageousness of its action and made an undertaking to the Federal Court that it would withdraw that as a tender requirement and consideration. An acknowledgement that this master plan, touted by the member for Geraldton, was contrary to the Trade Practices Act and contrary to the very principles -

Mr Bloffwitch: No, it was not contrary. It was proposed that it was contrary.

Ms MacTIERNAN: Why did it back down from the master plan, as the member described it?

Mr Bloffwitch: Probably because it did not want to waste thousands of dollars of the port's money defending an action against the union. That is why it would have settled.

Ms MacTIERNAN: It knew it was going to lose.

Mr Bloffwitch: Because it was spending other people's money and it has some respect for that.

Ms MacTIERNAN: I am very interested to hear that port authorities do not like spending other people's money. This brings me to one of my pet topics: Why could the Fremantle Port Authority use public money to sue a member of the Opposition for defamation? Where has there been a precedent for this? People hear this, but do not believe it. It was not an action taken and paid for by individual members of the port authority, but a Russell Allen inspired action by the authority. "How can we best shut up the Opposition that has been critical of us? How can we best shut up the Opposition which has made the extraordinary allegation that the Fremantle Port Authority was involved and implicated in Patrick's asset-stripping operation that cheated so many thousands of workers of their entitlements? We will use the taxpayers' money to sue the member of the Opposition." The member of the Opposition paid her own legal fees, but the port authority used public money.

The member for Geraldton says, "We backed down from an action in the Federal Court that alleged that we were engaging in restrictive trade practices, because we do not want to spend taxpayers' money on legal fees," yet the Fremantle Port Authority, under the direction of Russell Allen and Eric Charlton, was using public money to sue a member of the Opposition. The member for Geraldton should be in Pakistan. That is the way they run Government.

Mr Omodei: But in the end you had to withdraw.

Ms MacTIERNAN: I make absolutely no bones about it. In the end, I had to give a qualified apology. Do members know why that was? I could not afford the potential $100 000 in court costs.

Mr Barnett: You would not want to defend yourself, would you?

Ms MacTIERNAN: No, I would not want to defend myself - absolutely not. I was a commercial lawyer, not a defamation lawyer. Peter Foss, QC, did not want to defend himself. Peter Foss, QC, used taxpayers' funds to defend himself against a defamation action. I was prepared to use my own money to defend myself, but at the end of the day I had to say, "Enough is enough." The Government had no fetters - it was public money. Russell Allen did not have to pay a cent, Ron Aitkenhead did not have to pay a cent, and not one of the other toadies that the Government has put on the Fremantle Port Authority has had to pay a cent, but I had the potential liability for legal costs. Of course, it is not a fair contest.

It is extraordinary. The member for Cottesloe, the minister for prosecuting unpleasant and unfriendly mayors, or the minister for mayoral witch-hunts, says that I should have defended the action myself, when Peter Foss, QC, his cabinet colleague, is milking the public purse to defend defamation actions against him. The minister's double standards are extraordinary. I had to give a highly qualified apology to the Fremantle Port Authority, not because I thought that I should but because I thought that it was a disgraceful act on the part of the Fremantle Port Authority, with the full connivance and support of the former Minister for Transport, to attempt to shut me up in my investigations of the Fremantle Port Authority and his performance generally. It will not shut us up; we will continue.

Mr Osborne: The member's resentment is fuelled by the fact that she feels very bitter about it.

Ms MacTIERNAN: Not at all. Like many of Lord Osborne's colleagues, there was wry amusement throughout the profession that the Attorney General's first act as Attorney General was to make himself a QC. That says something about not only the priorities but also the ego of the man.

Mr Osborne: The member is a very bitter person.

Ms MacTIERNAN: Not at all. It is outrageous for the minister for mayoral witch-hunts to suggest that I should defend myself against such an action when I come from a commercial law background, but Foss, QC, can dip into taxpayers' funds.

Mr Barnett: The member took me a little more seriously than was intended. I was reflecting on her legal skills in court.

Ms MacTIERNAN: I do not know how much the minister understands the various aspects of law, but defamation is highly technical. Anyone who did not have expertise or specialise in it would be an absolute fool to defend himself or herself in a defamation action, particularly when the taxpayer was funding a firm that engaged defamation experts. The minister's comment was nonsensical. However, we have veered from the debate.

I repeat that I am completely disgusted, as are many people in the State, with the conduct of the Fremantle Port Authority and the former Minister for Transport in this gross abuse of power, of using taxpayers' funds - public funds - to launch a defamation proceeding against a member of the Opposition for making basically an allegation that virtually everyone in the community believes is true. One day, when we are in government and we have a royal commission, we will establish the truth.

That demonstrates the politicisation that has occurred within the port authorities - that a port authority would actually take such an action. We have the master plan by the Geraldton Port Authority to include that restrictive trade practice requirement.

Mr Bloffwitch: Don't say that it was restrictive; it was never found that way.

Ms MacTIERNAN: The Geraldton Port Authority went to court and it slunk out with its tail between its legs, waving a letter saying, "We will not pursue this." Very interestingly, what do we now see? The Bunbury Port Authority. From my discussions with various players in the industry in Bunbury - my discussions are certainly not confined to the union - I know that Bunbury Port Authority is not happy about having to go out to tender. It feels that its will has been overborne by the Government and the Minister for Transport and it is putting its services out for tender. Again, what do we see? We see propped up yet again the master plan - the restrictive trade practice clause, which says, "If you want to provide stevedoring or maintenance services for the Bunbury port, you must be prepared to put your workers on workplace agreements. We will not have anyone who will be prepared to work in a collegiate way with the work force. We will not accept that productivity is a group effort and that we must have collective agreements."

Mr Osborne: All they are asking is that the work force's first loyalty is to the port, not the Maritime Union of Australia.

Ms MacTIERNAN: It is important to understand one point in the nonsense about direct employee-employer relations. How does one deliver productivity, particularly in light of the successful model that was set up with the integrated labour force program? It is all about collectivity, flexibility and the work force working together. The focus on direct employee-employer relationships is to deny the importance of that collective arrangement and to deny the importance of working in a collegiate way with one's colleagues to achieve a productive outcome. It is utter nonsense. Members should think about it. How are we to get productivity out of a fragmented work force when there are no cross-worker relationships and it is all individual employee-employer relationships? It is complete nonsense. It will break down the great strength. Lord Osborne, in his maiden speech, said exactly that. He talked glowingly about the integrated labour force program. That is a recognition that we need a collective approach.

Mr Osborne: There is no reason that it will be lost.

Ms MacTIERNAN: It will be lost. There are individual performance assessments.

I know that the member for Bunbury does not like to travel and prefers to stay in his own area, but he may have travelled to Kununurra and spoken to the Argyle workers about the change that occurred in their workplace relations when they went onto individual contracts. The collectivity that had been very positive for the company and that had led to productivity achievements well in excess of the benchmark that had been set by that company disappeared, and suspicion and conflict was created between workers with the introduction of individual performance assessments, because all the workers were looking over their shoulder to see how the other workers were getting on with the boss and they ceased working as a team. The teamwork and collectivity that is essential to a productive outcome was absolutely destroyed. That is the philosophical difficulty with the Government's approach to productivity.

Mr Osborne: They still work as a team, but their primary loyalty is to the port rather than to the Maritime Union of Australia.

Ms MacTIERNAN: That is nonsense. These people have great loyalty to the port, as has been demonstrated by the results, as the Deputy Premier said. The integrated labour force program has led to great productivity improvements. That is because people do identify with their employer. I know that members opposite are by nature purely materialistic. Their philosophy is based on the notion that people who do not receive a direct profit from their employment will not take an interest. That is why members opposite are anti the public sector. They cannot understand how people who are not dipping their fingers in the cookie jar and getting a share of the take can identify with the outcomes of an organisation and have a commitment to an organisation. That is the basis of their ideology.

Mr Cowan: That is quite wrong.

Ms MacTIERNAN: The agrarian socialist opposite claims to have a different view!

Mr Cowan: My view is very different from your view - you are right about that - but I do not know that I would describe it in the way that you have described it.

Ms MacTIERNAN: The Government is taking the wrong action with regard to the State's ports. I have visited most of the ports in Western Australia - that is, when I am allowed onto the premises and am not ejected by the Minister for Transport, which leads to a stoppage of work - and I have been quite impressed with the people whom I have met in those port authorities. I was particularly impressed with the Broome Port Authority. I am very pleased that notwithstanding that that port is much more directly managed by the Department of Transport, there is a great deal of energy and dynamism among the management of that port, and a real desire to expand the areas of operation of that port, all of which is being done quite happily within a public sector framework.

We support what the Government is doing with regard to commercialisation, but we have great difficulty with privatisation. We hope that now that One Nation has out-polled the National Party 2:1 in O'Connor and 4:1 in Forrest, the National Party will change direction and move away from its focus on privatisation.

Mr Cowan: Do you want us to move down One Nation's path and adopt its philosophy?

Ms MacTIERNAN: The National Party can learn a few lessons. It can learn that its rural constituency is very disenchanted with privatisation. It has seen the results of privatisation.

Mr Cowan: Come on! What has been privatised in the bush?

Ms MacTIERNAN: Westrail track maintenance has been privatised. Substantial numbers of people were employed by Westrail throughout the State to maintain tracks.

Mr Cowan: That is not right. You should look at what privatisation really means. One of your big problems is that you do not understand half of the things that you talk about.

Ms MacTIERNAN: Come off it! Privatisation includes the contracting out of services that were previously provided by government. Westrail track maintenance is one example. We have also seen the dismantling of Main Roads WA. That is having a major effect on rural areas, because rather than base the workers in places like Narrogin, Buckeridge brings in his blokes, who stay in caravan parks during the week, and the pay cheques that go from Main Roads to those blokes are not spent in Narrogin but are sent to their families in Perth and are spent in Perth, and their children do not come to Narrogin and are not counted in the statistics for the provision of education and health services in that town. That story is being repeated around the State. The Government is now proposing to sell all of Westrail, not just the track maintenance. Some hospital privatisations have taken place in the bush. Employment services have been privatised, which have had an effect on the bush. The list goes on and on. Stateships is being privatised, notwithstanding that the National Party gave a cast iron guarantee not to do that. I think the National Party has turned into a complete and utter joke, and that is also what most people in the bush are beginning to think.

Mr Cowan: We will see how we go in 2001. I am looking forward to it!

Ms MacTIERNAN: Absolutely, particularly if we have one vote, one value. If we can do a deal with Douggie, National Party members will go down the gurgler!

Mr Cowan: I do not think you are right there either.

Ms MacTIERNAN: What percentage of the vote did the National Party get in Kalgoorlie? That was really good! It was under 10 per cent!

Mr Cowan: If I were you, I would not use federal figures and get too cocky about them.

Ms MacTIERNAN: That is right. We should not get too cocky. Certainly National Party members are not very cocky these days.

A message can be found there about privatisation and about the dismantling of services in the bush. These are now very live issues in country Western Australia. These activities are taking place around Western Australia. The Geraldton Port Authority is seeking to dismantle this highly successful integrated labour force program. That is also happening in Geraldton. I note with some satisfaction that the Esperance Port Authority issued a statement yesterday that it would not be bullied - it is interesting that the port authorities are talking about being bullied - into privatising its services. Quite apart from the issue of equity, there are very good arguments for retaining an integrated labour force program rather than trying to carve up port activities into a plethora of small, privately operated areas.

This Bill gives port authorities specific power to contract out, and also to grant exclusive licences. There has been a great deal of criticism about the grant of exclusive licences. The Chamber of Minerals and Energy of Western Australia and the Chamber of Commerce and Industry of Western Australia stated in a report that they prepared recently that they are very concerned about the trend by the Government to grant exclusive licences, because they believe that in most instances, that is not the way to gain greater efficiency in these areas and that the threat of competition is a far greater incentive than is the grant of exclusive licences.

In the fullness of time, I would be interested to review the outcome of the Dampier Port Authority replacing the thriving competitive market that was in existence before the Government decided it wanted to grant a five year monopoly. I also note that the Geraldton Port Authority backed away from the five-year model used at Dampier, and has gone to three years. That is obviously a small concession, although not enough to make it immune from the action that was taken against it for restrictive trade practices.

I know we have only a representative minister in this place, but, in light of the Geraldton experience in the Federal Court, I would be interested if in responding to the debate today the Minister for Local Government would advise why an identical provision has been repeated in the Bunbury tender and whether he anticipates another Federal Court action by the Maritime Union of Australia. It seems to be rather silly to continue to insert those clauses when there are clear doubts about their legality.

The Opposition will move amendments to the legislation dealing with accountability measures. We are concerned about the statement of corporate intent, which is one of the major accountability instruments, because the performance of other corporatised entities such as AlintaGas and Western Power in the presentation of statements of corporate intent has been abysmal. The idea is that the statement of corporate intent is tabled at the beginning of the financial year, although in reality that has not occurred. The Opposition will propose amendments requiring that a statement of corporate intent be prepared in time for inclusion in the budget papers. Then the Parliament through its normal estimates process could call the relevant ministers and chief executive officers and examine them on the proposals in the statement of corporate intent. The Opposition agrees with the notion of the statement of corporate intent. However, it has become a way of avoiding rather than improving accountability, so the Parliament must take measures to deal with that.

The Opposition also wants to ensure that port policy is directed for proper purposes and not by bizarre industrial relations

fantasies or unrelated outcomes. We will propose amendments that will ensure that when services go out to tender there is no capacity for direction on industrial relations issues, and decisions are made on a commercial basis. There are some occasions in which contracting out is appropriate; for example, the Fremantle towage has always been contracted out. If the Government wants to impose an obligation, say, on continuity of supply that should be an obligation on the owner, and it would then be up to the proponent to set in place the industrial relations mechanisms to deliver on those commitments.

MR THOMAS (Cockburn) [12.14 pm]: I am pleased to have the opportunity to speak on this matter to support my colleague, the member for Armadale. I will make a few observations about the Government's policies on ports, the gross damage it has inflicted on some sections of the Western Australian community, and the adverse impacts on my electorate.

In reviewing the minister's second reading speech I was interested to note that one of the accountability mechanisms in the Bill - as the ports move to a more corporatised model - is the provision of statements of corporate intent. They will be drawn up by the various port authorities and will be the public documents against which performance is measured. When I read that I chuckled a little, but at the same time I was concerned. I suspect that is likely to be as much a fraud in terms of accountability as it has been the case with the energy corporations. I am pleased that the Minister for Energy is present for this debate and is following it so closely, because he is responsible for providing to this Parliament statements of corporate intent on behalf of Western Power and AlintaGas. In the four years since those organisations were created and have had a legislative obligation to prepare statements of corporate intent and bring them to this Parliament, not once have they complied with that statutory obligation.

When I have quizzed the minister about his responsibility under the accountability provisions of the Electricity Corporation Act and the Gas Corporation Act to answer to the Parliament, the minister has said that that was one of the mistakes that was made in drafting the legislation, because it has not been possible. I refute that. It is possible if one is prepared to devote the priority and resources to accountability. However, it is not important enough to those corporations or to the minister and they shrug their shoulders and say that it is not possible. The minister has not prepared amending legislation to provide for some other accountability mechanism, and is happy to live with the fact that he is acting illegally and the corporations are acting illegally and they are prepared to treat the public and the Parliament in a cavalier manner.

On the face of it, the legislation looks good. I am cynical because I have not seen any degree of accountability in the performance of corporatised entities and this Government. One has to look only at the answers we get to questions. I asked a series of questions some time ago to which I received three or four answers yesterday. The answer to the question was, "We are not going to tell you because it is commercially confidential." The shroud of commercial confidentiality behind which this Government hides is extraordinary. The lack of accountability of these corporatised entities is profound, and flies in the face of every single authority that has considered the issue of accountability of government trading enterprises - from the Commission on Government to the Royal Commission into Commercial Activities of Government and Other Matters. On each occasion when those bodies have looked at these matters they have made recommendations on procedures which the Government in a cavalier manner has shown that it is not prepared to accept.

That will be the Government's undoing. While things are going well the minister can sit in this place and sleep through speeches in Parliament and treat the people of Western Australia in a cavalier manner. However, that will be the minister's and the Government's undoing when they get caught out. I predict that they will be.

The community that I represent in this Parliament is closely related to the port of Fremantle. A substantial number of people who work in the port of Fremantle - there are not that many of these days - live in Cockburn. The older area of the electorate consists in very large part of retired waterside and other port workers. The shock and trauma caused in that community during the dispute on the wharves of Fremantle earlier this year was very serious. This Government was an accomplice in that dispute. The image that will always typify the Government's approach to industrial relations was the picture of the thug wearing the balaclava accompanied by a Rottweiler. People who had worked or played there and who had fond regard for the port found that very traumatic. I recall taking my young son to soccer one Sunday morning after it was revealed that the police had been undergoing training in the use of teargas at the showgrounds. A parent of one of the children in my son's soccer team said that a Government that has to turn teargas on its citizens is bereft of any morality. That was the observation of an ordinary person - not a waterside worker. That has been the approach taken by this Government to industrial relations. It is a terrible thing and it is unnecessary.

This Government's approach to the Port of Fremantle is vandalism. I am particularly concerned about what will happen to the port and about the impact of the redevelopment of Victoria Quay, which will include the *Australia II* yacht, and the effect that that might have on the commercial operations of the port. I recently had a briefing from the Fremantle Port Authority on future developments and a briefing from the City of Fremantle on the redevelopment of that area. My concern is the rail link between the north wharf, which is to remain, notionally at least, as a working port. It is the link between Fremantle and Sydney and other places on the east coast. If it is to be a container port - as it is, and we would like to see that role grow and prosper - that link must remain. The redevelopment plans for the Maritime Museum and other facilities on Victoria Quay show that railway line going through a park.

Members should visualise the Fremantle railway station as it is and superimpose a railway line through the western side. The long trains carrying containers will go through a park in which people picnic and recreate. That is very bad planning. I am fully in favour of development of Victoria Quay. It has fantastic potential as a tourist attraction and recreation site. However, much of that potential revolves around its being a working port. People like to go to a working port and to see ships coming and going and being loaded and unloaded. They will be able to see that on Victoria Quay because most of the activity will be on the north wharf. That will provide an ambience and atmosphere.

If the working railway line between the north wharf and Kewdale, and on to the eastern States, runs through a park, the pressure to remove it will be enormous. I cannot imagine how it will be done. I spoke to Westrail officers during a briefing on another matter and asked how that will be done, but they do not know. Will they have a person walking ahead of the trains waving a red flag? It is bad planning and there will be a conflict between pedestrians, recreation interests and working rail interests. I implore the Government to reconsider that aspect of the redevelopment. I am sure a way can be found to achieve all the desirable goals planned for the Maritime Museum and the redevelopment on the western end of Victoria Quay without that conflict between rail and pedestrian interests.

Statistics indicate that the Port of Fremantle takes about 250 000 containers a year. That could easily increase to 600 000 or 650 000 without any major capital investment. The capacity is there; we do not need to build any more port facilities to increase that capacity. That would be a very attractive thing to do.

It concerns me that earlier this year the Government called for expressions of interest for the construction of a port in the electorate of Peel to compete with the Port of Fremantle. That proposal sits alongside the Fremantle-Rockingham Industrial Area Regional Strategy report, a document which discussed the need for industrial areas in that region. That port proposal and the other industrial developments foreshadowed and considered in the FRIARS document are hanging over some of the areas that I represent as potentially affecting the way they will develop. Indeed, the report singles out two of the suburbs - Wattleup and Hope Valley. Each has an asterisk beside it on the map in the report. The key at the bottom of the map denotes that their future is to be determined; that is, it is yet to be determined whether they will remain as suburbs or residential areas. I have raised the issue with the Minister for Planning in this House on several occasions, and I have written letters and issued press statements. I have had nothing but a bland, cavalier response.

Mr Omodei: Bland and cavalier?

Mr Osborne: That is an oxymoron.

Mr THOMAS: No, it is not. "Cavalier" means one takes no notice, and that is done by being bland.

I have asked the Minister for Planning many times about this issue and he has ignored me. How would the Minister for Local Government and the three other members here - two of whom are following the debate - feel if they lived in an area and the Government issued a planning document suggesting that its future is yet to be determined? They would feel insecure and they would be reluctant to put up a new garage or paint the house.

Mr Omodei: What is the connection between that and this Bill?

Mr THOMAS: One of the things hanging over these suburbs is the future port development. We have been told that expressions of interest have been called for the development of a port to compete with the Port of Fremantle. What need is there for a second port to compete with Fremantle? There is no need.

Mr Masters: Which suburbs are you talking about?

Mr THOMAS: Wattleup and Hope Valley.

Mr Masters: I will listen now.

Mr THOMAS: I will send the member a copy of *Hansard*.

The current Port of Fremantle is handling 250 000 containers a year and has the capacity to handle 650 000. On the most generous demand projections for container traffic in this State there is no need for another port for at least 20 or 30 years.

I want to see the port of Fremantle prosper and see this coast become the place at which the containers are dropped off to service the rest of Australia, and that can happen. It obviously requires port facilities, but we already have port facilities. Competing container companies are handling those containers and a railway links Western Australia to the rest of the Australia. That second port is not needed. Given that the Government is the Government and it has the capacity to do these things, I have said that a decision should be made soon so that everybody knows what is happening.

The Fremantle-Rockingham Industrial Area Regional Strategy document, which is casting such a pall over these suburbs, was due to be resolved last year. Apparently something more pressing came up and the planning officers who were dealing with it were diverted to other things. I have asked time and time again when that study will be completed, and when the people in those suburbs will know what lies in their future. The Government at least owes that to them. To determine the

very existence of a suburb in which people live is bad enough - I guess sometimes these things happen, but in this case I do not think it is justified - and the Government has an obligation to move quickly to resolve the uncertainty that these people are experiencing, but it is not. I cannot for the life of me understand how any Government can be so inhumane and insensitive to leave a matter such as that hanging year after year. When we ask when this matter will be completed, the Government says it is working on it but other matters come up and planning officers are diverted, or they are on annual or long service leave and so on. When these officers get around to it, they will finish it off. It is a very cavalier way to treat people.

The hidden agenda of this is clear: The notion is that it was Hon Eric Charlton's scab port. The Government wants to build a port which will compete with Fremantle and which will be un-unionised. It has been unsuccessful.

Mr Bloffwitch: That is scab, is it?

Mr THOMAS: That is scab, yes.

Mr Bloffwitch: To build another port automatically makes it a scab port, does it? I never heard such rot in all my life.

Mr THOMAS: The port of Fremantle already exists and handles 250 000 containers a year and could handle up to 650 000 a year without building any more ports. It can cater for all the projected traffic for the next 20 or 30 years. There is no need for another port given the level of demand. That port of Fremantle is already a free enterprise port. Two private companies operate container facilities and they compete with each other.

Mr Osborne: It is like having Tony Lockett on your back with a big arm around your throat.

Ms MacTiernan: Why does the Fremantle port show better results year after year? Why is it so successful?

Mr THOMAS: I would be quite happy to introduce the members for Bunbury and Geraldton to some people in the ports because they have an image of workers and unions as being unproductive and not desirous to be productive.

Mr Bloffwitch: We know of a few unions in positions of absolute power and one of them is the Maritime Union of Australia.

Mr THOMAS: I do not know the last time that the member for Geraldton met a waterside worker or a member of the MUA.

Mr Bloffwitch: Most of the debate on your side has been about everything else bar the legislation. You relate what you are saying to the legislation.

Mr THOMAS: It is about what the Government is doing about ports. The Government had chain link fences put up on north wharf with Rottweilers and people wearing balaclavas; that is thuggery and fascism and I do not ever want to see that again. That is what I am fearful of because that is the Government's approach to industrial relations. It is trying to break the port of Fremantle and the people who work there. I get upset about that because I used to work at the port of Fremantle and I have an emotional attachment to that place and institution. I want to see it continue to prosper and so do the people who work there, as do the unions. The Government's prejudice prevents it from seeing what is happening and what is capable of happening. How many MUA workers work in the port of Fremantle now?

Ms MacTiernan: A contribution from the member for Vasse; he said no wharfies work.

Mr Masters: No, I did not.

Ms MacTiernan: Yes, you did.

Mr THOMAS: The number of people who work at the port of Fremantle can be counted in their hundreds. When I was working there it was thousands. The numbers have been reduced to improve productivity and that has occurred in cooperation with the unions. The Government must understand that people operate within a cultural milieu. Those cultural milieus can change, even towards different ends.

Ms MacTiernan: You do not want the Labor Government without any blood on it.

Mr THOMAS: Exactly.

I tell members a somewhat related tale: During the 1980s when the Labor Party was in power, an accord was reached at the state and federal levels between the Australian trade union movement and the Government to promote productivity and prosperity in Australia. Under that arrangement, the Australian Council of Trade Unions, led by people such as Crean and Ferguson, presided over a wage decline. That was absolutely unprecedented. That was a remarkable cultural transformation; the ACTU went to its members and said, "We would all like to get more money, but if you do not have a job, you are even worse off, so let us exercise restraint for the good of the country", and it worked. A small eddy, if you like of that overall current, occurred in the iron ore industry. I was responsible, along with a number of other people, for setting up a consultative council in that industry. Productivity remarkably increased and the number of people employed in that industry decreased dramatically. This was done with the cooperation of the union. The employers went to the unions and said, "We

must remain internationally competitive in an international market. If we do not remain competitive, we do not have an industry or a job anyway." An industry which had once been characterised by an adversarial relationship between the employers and the unions was changed to one of cooperation. Members need look only at places like Japan. Members opposite seem to gain their philosophical inspiration from people such as Buckeridge who is a thug. They seem to assume that when an employee-employer relationship exists, the employee will be unproductive, the relationship must be adversarial rather than cooperative, and the only way that productivity can be gained is to go through the fraud of getting individuals to incorporate themselves as companies and engage in a contract for service, rather than of service; a subcontract relationship rather than an employee-employer relationship.

That is patently untrue. Government members need to open their eyes and look at other countries such as Japan in which there are amazingly cooperative relationships between employers and employees. The employees have an exceptional sense of identification with their companies and a high degree of productivity. They are an example of good employee-employer relationships. The notion of contract "for service", as it is known in the legal sense rather than "of service", is almost unknown in Japan.

Mr Bloffwitch: Because of subcontracting our housing industry is the most efficient and cost effective in Australia.

Mr THOMAS: Horses for courses.

Ms MacTiernan: It also has a very high accident rate. There are endemic problems in that industry.

Mr Bloffwitch: They are not all union members.

The ACTING SPEAKER (Ms McHale): Order members, the member for Cockburn is on his feet.

Mr THOMAS: The members for Geraldton and Bunbury and their colleagues must understand that cultures and attitudes can change. These are separate variables. Members opposite support the sham of people who contribute labour going through the motions of being only subcontractors. One example worth noting is Austal Ships Pty Ltd, an industrial shipbuilding success story in Australia. It is a terrible place in which to work. Everyone who works at Austal Ships can be employed only as an incorporated entity. A person who wishes to work must have formed his own company.

Mr Bloffwitch: It is operated totally on a subcontract basis.

Mr THOMAS: That is right. One of my son's friends, who is a shipwright, was given some work there. That young man, who has travelled widely around the world and sailed on the *Endeavour* to New York and such places, said it was like working in the Bronx. Workers are not game to leave their tool boxes lying around because they get stolen. The relationship between the workers, the culture and the atmosphere is poisonous. It is the sort of place in which he did not want to work. He is not politically oriented, but conveyed what the atmosphere was like. On many occasions I have taken visitors and VIPs to Austal Ships. It is one of the success stories of Australian industry. However, behind the gloss and glitter and the achievement, which is very significant, is a place like that. I would encourage neither a development nor a community of that nature. I especially do not want to see it on the ports. The unions and the workers -

Mr Osborne: Don't you want to see success?

Mr THOMAS: I want to see success. Members opposite might try to understand a proposition that has two or three variables, which is more complex than sloganeering. It is possible to have cooperative relationships between organisations and employees who are committed to a common end; that is, the prosperity of the organisation for which they work. I have seen that at the port of Fremantle where I once worked when Paddy Troy was there. We would not find a person more committed to the prosperity of his industry despite the way he was characterised by the then Premier, the present Premier's father. He was quite wrong. Those aspirations by the workers and their unions can be used to promote the common aim of productivity and expanded employment.

I am concerned that a scab port will be built.

Mr Osborne: A free port.

Mr THOMAS: No; a scab port at Kwinana to compete with the port of Fremantle in a deliberate attempt to break the port of Fremantle. That is vandalism.

MR RIEBELING (Burrup) [12.44 pm]: During the past half hour we have witnessed the true reasoning behind this Bill and the Government's intention regarding the maritime industry. The two members opposite have been enlightening in their hatred of the unions. "Bill and Ben" have been making comments about unions and incompetence and the like. About a year ago I read out about 15 or 20 company references in relation to the stevedoring industry provided through the Dampier materials offloading facility wharf. Glowing endorsements of every user said that the union-dominated work force there was flexible. It changed its work practices to suit the unusual conditions on the MOF wharf. What did this Government do in relation to work practices that fitted the industry and its efficient workers? It got rid of them and put in place a stevedoring

company that could not compete with P&O Australia Ltd, the operator on that wharf. The Government got rid of P&O because, despite the fact that this Government was pushing Western Stevedores, Dampier, it could not compete with P&O. I hope that everyone on the other side of the House knows about that. It was clear that it was the intention of the then Minister for Transport to get rid of those people irrespective of whether they were good workers. They were unionists so they had to be got rid of. The members for Bunbury and Geraldton support that unequivocally; they want to get rid of anyone who wants to remain in the union. The hatred of the union by that mob is unbelievable. If we did the same when we were in Government we would attack the Chamber of Commerce and Industry and drive it underground at every opportunity. That was not the case.

Mr Marlborough: I have just been asked to join my Chamber of Commerce and Industry. I told them to get lost.

Mr RIEBELING: One thing members opposite cannot understand is that members on this side support businesses making profits and employing people.

Mr Osborne: So that you can bleed them.

Mr RIEBELING: No. The Premier used to proudly say that Western Australia wants to be just like the tiger economies of Asia. We do not hear him saying that anymore. I wonder why. He has not mentioned them for some considerable time. They have the workers whom members opposite want. Workers there have no rights. Everyone has a job, especially in Bali, but they do not receive very much pay. If members opposite want that sort of work force in Australia it will come back and bite them very shortly. When the world economy starts to impact here people will ask who destroyed their job security. Members opposite destroyed it with legislation directly designed to destroy unions and the rights of workers. People will know that very shortly.

Mr Prince: Where do you get the connection between the world economy and union rights?

Mr RIEBELING: I am saying now that the Government's push to destroy unions and job security will come back and bite it hard. People will never forgive the Government for what it has done to this economy. As soon as the crunch comes - and it is coming - members opposite will be in all sorts of strife. The sooner those opposite are sitting over here, the better. Let us bring on an election quickly.

[Leave granted for speech to be continued.]

Debate thus adjourned.

WATSONIA PROCESSING PLANT

Statement by Member for Cockburn

MR THOMAS (Cockburn) [12.50 pm]: I wish to draw the attention of the House to a matter which affects a number of people in my electorate and which includes the Watsonia processing plant. It is a very valued, longstanding institution in the area, and I am very pleased to have it there. It processes our agricultural produce, of which it exports a fair proportion. However, for environmental reasons, there must be a buffer zone around it. As development had proceeded south - from Hamilton Hill, through Spearwood and further - suburbs have built up around it, and a buffer zone has been left.

The people who own the rural land that has been developed over the years have regarded their blocks as their superannuation cheques. In most cases they have subdivided those blocks and developed them for residential purposes; however, those immediately around the Watsonia plant are not able to be subdivided because of the existence of the buffer zone and the planning controls over it. We have a dilemma because we are left with an island of rural wasteland, surrounded by suburbs. It is quite unsatisfactory. I hope that time will permit my colleagues to raise a grievance on this matter. I suggest a planning study be done to identify some use for that land, because it could be used for purposes other than residential land.

PATIENT ASSISTED TRAVEL SCHEME

Statement by Member for Burrup

MR RIEBELING (Burrup) [12.52 pm]: I wish to enlighten the House about the poor health services country people, especially those in the Pilbara, must put up with. I will give an example of a lady whose daughter has been diagnosed with major dental problems. The member for Greenough probably will be aware of that sort of problem.

Mr Minson: I will fly up and sort that out.

Mr RIEBELING: Action must be taken to rectify the problems this girl is having with her teeth. Debra Keenan has advised me that the dental services available through the school identified the problem her daughter, Hanna, has with her teeth. She then went to the visiting specialist, who looked at the girl's teeth and confirmed that major work was required. Most people in the north of the State think the patient assisted travel system should provide access to the services required by this girl to fix this dental problem. No, this system does not allow Hanna to access the orthodontic specialist services in Perth

because this Government has decided that the treatment is cosmetic and, as such, is not covered under the PAT scheme. This poor girl is expected to put up with the malformation of her teeth which will be a problem both physically and medically. I urge the Government to change the rules.

JANDAKOT AIRPORT

Statement by Member for Greenough

MR MINSON (Greenough) [12.53 pm]: I wish to give a prologue to my speech on the Address-in-Reply and raise the question of aviation safety in Australia, particularly as it applies to general aviation in Western Australia. Three areas are causing considerable concern. One is the question of user pays. I do not have a problem with that principle, except that in Western Australia we need pilots of all types and the user-pays system, coupled with location-specific charging, is causing a huge increase in the cost of aviation training.

The other issue is the question of privatisation as it applies to aviation. I draw the attention of House to the fact that Jandakot is the busiest general aviation airport in Australia, with 40 000 aircraft movements a month. Last Sunday I flew into Jandakot airport at 6.05 in the evening to find that the tower was closed - I stress that this is the busiest general aviation airport in Australia - and had reverted to a mandatory broadcast zone. Three aircraft were in the circuit when normally there would be up to 12. When I landed, all the aircraft were on the ground and the pilots were in the bar. I found out it was because they were too frightened to fly, and had the good sense not to fly. I will return to this matter in my speech during the Address-in-Reply debate.

KRISTY DARRAH

Statement by Member for Southern River

MRS HOLMES (Southern River) [12.55 pm]: Kristy Darrah is a young Gosnells athlete who recently won a bronze medal at the Commonwealth Games in Kuala Lumpur. Kristy's gymnastic team came third after a thrilling event, which saw Malaysia placed first and Canada second. The team was competing against 11 other countries, and I understand that Kristy also took part in three out of the 10 individual events and achieved fourth place in rope, clubs and ribbons.

Kristy is yet another shining example of the calibre of youth who live in the seat of Southern River and elsewhere within our society. These young people are the key to our future. Their initiative, dedication and drive should be an example to us all. Their achievements are attained only by training hard and making sacrifices to achieve their goals. Kristy and her family deserve to be congratulated on her success at the Commonwealth Games. I am sure Parliament will join me in wishing her every good fortune in the next major competition she will enter; namely, the 1999 National Championships next March.

JOONDALUP CITY SPEED CLASSIC

Statement by Member for Joondalup

MR BAKER (Joondalup) [12.57 pm]: I bring to the attention of the House the inaugural Joondalup City Speed Classic to be held on Sunday, 25 October this year. The event has been given the strong support of the City of Joondalup, LandCorp and the North West Metropolitan Business Association. It is aimed at raising public awareness of the City of Joondalup, and to provide family entertainment in the area.

The Joondalup City Speed Classic will be a re-enactment of the halcyon years of the around-the-houses motor racing in the United Kingdom, in which streets were closed and turned into a race circuit. The day will feature historic sports cars, racing cars and motorcycles, and undoubtedly will comprise one of the finest compilations of historic motor vehicles ever seen in Western Australia. To give an idea of the likely status of the Joondalup City Speed Classic, early indications are that it will involve 120 competitors with vehicles to a value totalling in the vicinity of $10m.
Mr Marlborough: That is before the race starts.

Mr BAKER: That is right. As members are aware, a similar event is held each year in York and it attracts approximately 5 000 people. The Police Service estimates that up to 20 000 people will be attracted to the inaugural event at Joondalup. That would be no surprise to members. The prime objective is to provide family entertainment for the area, raise the awareness of the existence of the City of Joondalup and help promote the region in due course. I urge all members to attend if they can find time. The entrance fee is moderate, and all streets within the circuit will be closed off and will pose no safety concerns.

SOUTHERN COAST TRANSIT

Statement by Member for Peel

MR MARLBOROUGH (Peel) [12.59 pm]: I advise the House of the dismal circumstances which the residents of Rockingham and Kwinana must put up with under the present public transport system. Southern Coast Transit is presently

running a service that places undue pressure on drivers. I am inundated in my office by staff telling me they must take time off work as a result of mental strain caused by the times they are expected to drive during the day, and the time limits to which they are expected to adhere in travelling between Rockingham and Fremantle.

I am advised that the company's management has no ability to discuss matters in an open manner with its work force. Also, we have had more industrial stoppages with Southern Coast Transit in the past two months than seen in the past 10 years. It is presently before the arbitration court regarding underpayment of award wages to the tune of $700 000. This is another indictment of the company's ability to manage a public service. It is simply not a capable and competent company. It is causing a great deal of anger among passengers. If Southern Coast Transit is not capable of running a proper bus service, what is the Government doing to make sure it gets out of the business or to improve it to the standard the public requires?

Sitting suspended from 1.00 to 2.00 pm

SPEAKER'S ABSENCE ON COMMONWEALTH PARLIAMENTARY ASSOCIATION DUTIES

Statement by Speaker

THE SPEAKER (Mr Strickland): Some members will be aware that the Executive Committee of the Western Australian Branch of the Commonwealth Parliamentary Association has elected me to be the branch's nominee for the position of regional representative on the executive committee of the association as a whole. The appointment will be formalised at the annual general meeting of the association, which will be held in New Zealand next week as part of the general conference that will be held there; and the first meeting of the executive committee will immediately follow that conference. Consequently, as I will be in New Zealand next week, the member for Geraldton will act as Speaker during that period.

MEMBERS' STATEMENTS

Statement by Speaker

THE SPEAKER (Mr Strickland): Following the decision of the House today to sit through meal breaks during the next two sitting weeks, I advise that members' statements, commonly known as 90-second statements, will be called for at 1.50 pm, immediately prior to questions without notice, on each of the next two Thursdays. To call for those statements at 1.50 pm rather than at 12.50 pm, as is the case at the moment, will avoid unnecessary interruption of other business.

CORRESPONDENCE BY COMMISSIONER FOR PUBLIC SECTOR STANDARDS

Statement by Speaker

THE SPEAKER (Mr Strickland): I have received a letter from the Commissioner for Public Sector Standards, Mr Don Saunders, referring to his report of 31 August 1998, tabled in this House on 8 September 1998, with regard to WorkSafe Western Australia. Mr Saunders wishes to clarify that references to "WorkSafe" or "WorkSafe WA" are references to the department for which Mr Bartholomaeus was at the relevant time the chief executive officer, and not references to the WorkSafe Western Australia Commission. I table the letter and direct that a copy of the letter be kept with the original report from the Commissioner for Public Sector Standards.

[See paper No 256.]

[Questions without notice taken.]

PARLIAMENTARY SITTINGS

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

That order of the day No 6 be now taken.

I take this opportunity to inform the House that we were scheduled to sit for three weeks, take a one week break and then sit for four weeks. However, it was suggested that we sit for seven weeks straight. I have canvassed members, principally on this side of the House, and the Opposition leader of House business. It is my assessment that while I had suggested sitting through as something that would assist members to spend time in their electorates, particularly with school functions approaching, opinion on this side of the House has been fairly evenly divided. I understand most members opposite would prefer to keep to the original timetable. In view of the less than enthusiastic support for my suggestion, we will retain the existing timetable. The House will sit for a further two weeks, take a one week break and return for four weeks. It will be necessary for it to sit for those four full weeks.

Question put and passed.

SURVEILLANCE DEVICES BILL

Committee

Resumed from 14 October. The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mr Prince (Minister for Police) in charge of the Bill.

Clause 11: Presumption as to evidence obtained under warrant or emergency authorization -

Progress was reported after the clause had been partly considered.

Mr RIEBELING: Despite what the minister said in his outburst during question time, this clause is an important part of this legislation. Perhaps now that the Press have all gone we can get back to serious debate instead of his trying to make a political point. The minister did badly in question time yesterday and took a hammering.

I have a great deal of concern about the presumption in this clause. I understand what the minister says about previous cases in which the High Court and others determined that all was well. I asked the minister to consider who holds the evidence in an application to prove whether good faith was shown in the issuing of a warrant. The prosecution holds that evidence. To put the onus of proof onto a defendant is burdensome. I see no great problem with the prosecution proving that point. There may be a reason that the prosecution should not have to prove the issuing was in good faith. If I am walking along the road with a gun in my hand and the police stop me, I should have to show why I have the gun. I would know what was in my mind and I would be the one in possession of those facts.

Mr Prince: I suspect a better example would be if you were walking down the road carrying what would otherwise be an ordinary kitchen utensil, such as a steak knife. Who then proves that you are carrying a weapon?

Mr RIEBELING: It is quite proper in those circumstances that the defendant should show just cause as to why he is carrying the knife. However, clause 11 deals with the state of mind of the applicant for the warrant in good faith. How is a defendant to be in possession of that sort of knowledge? The minister said earlier that all the defendant would have to do is to summons somebody. If the onus were not on the defendant, the prosecution would do exactly the same thing. The prosecution would be in the best position to know what grounded the good faith warrant. I can see no reason that the onus of proof should be on an accused person to show why a third party acted in good faith. If the minister is able to explain to me the logic of why a third party's intentions are easier for a defendant to ascertain than the prosecution to prove, then I will not need to speak again.

Mr PRINCE: I make a general point that the Bill is subject to time management - 5.30 pm. The member for Burrup may use the time as he wishes. As we discussed yesterday, the situation is this: If a police authority - that encompasses all the police authorities under this legislation - looks for the ability to put a surveillance device into what otherwise would be private activity, it must satisfy a Supreme Court judge.

Mr Riebeling: We have already gone through that.

Mr PRINCE: Yes, I am enforcing the point. It is not arbitrary like a search warrant; the police authority must satisfy a Supreme Court judge. We will come, I hope - maybe not because the member may slip over it - to what must be found to ground the warrant from a Supreme Court judge, which is set out in clauses 13 and thereafter. Having obtained the warrant to put a surveillance device into, let us say, a bikie gang's house because there are reasonable grounds to suspect that drug dealing activity is going on, if officers find from the device evidence of car theft, which is a perfectly rational, sensible, reasonable example, the member's proposition is that the evidence of the car theft should not be able to be brought into court.

Mr Riebeling: We are talking about clause 11.

Mr PRINCE: That is what the member said with regard to clause 10. My proposition is that of course the evidence should be able to be brought into court because it is evidence of a criminal activity and it has been lawfully obtained pursuant to a warrant. I am not talking about some unlawful means of obtaining that information. It is a lawful means, although that which was being looked at as criminal activity is not what the evidence is being brought for. It may be. One might end up charging people with offences with regard to drugs which grounded the warrant and offences with regard to other matters like car stealing, perhaps the possession of unlicensed firearms and so on. The member's proposition is that one can only take forward the drug dealing prosecutions and not the others. I disagree with him. That is what clause 10 is all about.

Clause 11 presumes that the warrant was issued in good faith. Basically the defendant must prove to the contrary. It is an evidentiary burden and nothing more. The defendant then has to bring forward some evidence. How does he do that? He calls for the warrant, and that which grounded the warrant in the form of documentary evidence and the officers who may have appeared before the judge and so on, and he puts the officers in the witness box and subjects them to cross-examination.

Mr Riebeling: Who holds that evidence?

Mr PRINCE: The prosecution. If one is to do the process the other way around, one is required to change the logic

contained in the Bill so that one can only bring evidence of the criminal activity for which the warrant was originally sought and nothing else, without going to court and saying that the warrant was granted in good faith and that the authorities want to bring evidence of other criminal activity that they found. The court then has to exercise its discretion as to whether to let the evidence in. The defendant then has the right under clause 11 to challenge the good faith nature of the warrant. That requires a 180 degree shift in logic. As long as the member accepts Bunning and Cross and the line of authorities that say one can admit evidence otherwise unlawfully obtained of criminal activity, the evidentiary burden of proof must be with the accused to bring evidence to the contrary. One can do that in a court, as the member and I both know, by asking for the police officer, the warrant and the documentation and cross-examining everybody involved. From a practical point of view whether the prosecution or the defence brings the case, one ends up with the same process. At the end of the day it will be up to a court to determine whether there was good faith in the grounding of the warrant initially. All of the arguments that the member brought yesterday about fishing expeditions and so on we have no need to go through again. Clause 11 in its form logically follows clause 10 which follows the current state of Australian evidentiary law. If the member wishes to overturn Australian evidentiary law, good luck to him.

Mr RIEBELING: I disagree absolutely with the minister, and I will explain why. It is not like other legislation where there is -

Mr Prince: An onus on an accused?

Mr RIEBELING: There is the presumption that the Multanova is correct. It would be a burden -

Mr Prince: Yes, and the breathalyser.

Mr RIEBELING: I can understand why that matter has been built up over the years. Tuning-fork experts used to say, "We tested the radar with tuning-fork 60:80," and so on. Such things are rubbish. If someone wants to challenge that evidence, he can test his own speedometer and say, "Mine was right."

Mr Prince: I know; I have done that, and successfully too.

Mr RIEBELING: This matter is different. It is where a defendant is of the view, presumably, that good faith was not used.

Mr Prince: I keep coming back to that point. Nonetheless, there is evidence of criminal activity which one can seek to put to the court as part of the proof of an offence. The member for Burrup is trying to prevent evidence of criminal activity from being put to a court.

Mr RIEBELING: Once again, the minister skips over people's rights.

Mr Prince: No. I cannot see where the right is.

Mr RIEBELING: We have passed clause 10. We have lost that argument; the minister won. We will now allow evidence of another matter to be used. We are now considering another clause which is supposed to provide an avenue for Joe Citizen -

Mr Prince: It flows on from clause 10(2).

Mr RIEBELING: It is an avenue for Joe Citizen to say, "This evidence should not be put in, because the first one was a fishing expedition." That is what it is all about.

Mr Prince: That is right.

Mr RIEBELING: To do that, he must prove that the police officer or whoever grounded the warrant before the Supreme Court judge -

Mr Prince: It is a presumption.

Mr RIEBELING: Presumably, it was not about what the warrant was grounded on. That is what it is about. He must show that the police officer did not have good faith in mind when he went to see the judge. I emphasise that all the evidence that a defendant needs to prove to a court that that is correct is in the hands of the prosecution.

Mr Prince: That is right.

Mr RIEBELING: Why should the person in possession of that evidence not be the one who is required to prove it? Who is in the best position to prove it?

Mr Prince: In effect, that is what happens, anyway.

Mr RIEBELING: The minister should not say "in effect". He is saying that the reverse should be the case. In most evidentiary matters, the best person to give the evidence is the one who is required to give it, but not under this clause. The minister is saying that the person in the worst position is required to prove that the person in the best position was doing

something not in good faith. At best, that is twisted logic. I will not take that matter any further - the minister does not agree with what I am saying - but it is worth putting on the record that, once again, one of the so-called in-built protections in the Bill amounts to absolutely no protection at all.

Mr PRINCE: I fundamentally disagree with that proposition. If we were able to gain a warrant for a surveillance device on flimsy grounds or on no grounds at all, just to put in a surveillance device, and we get absolutely nothing, we would then question the process by which a warrant could be gained.

Mr Riebeling: But aren't we talking about a warrant being issued and their finding things other than what grounded the warrant?

Mr PRINCE: That is right.

Mr Riebeling: Don't talk about what grounded the warrant, because we are not interested in that.

Mr PRINCE: I am sorry, but that is what it is about. That is where the good faith comes in.

Mr Riebeling: It has already been proved to be groundless.

Mr PRINCE: I am sorry, but that does not follow. Let us refer back to the bikie gang. Let us say that, in the mind of a Supreme Court judge, there are reasonable grounds for believing that a bikie gang is engaged in the distribution of amphetamines - perhaps the evidence is on affidavit from the police officers - and the judge, after carefully reading the affidavit and following the provisions of clause 13, says, "Here is your warrant; off you trot," and in goes the device, whether it be in a vehicle, a house or a caravan. Let us say also that the device reveals evidence not of dealing in amphetamines but of car theft and the possession of firearms without a licence. Car theft is relatively serious; possession of firearms - ho hum, so-so in the scale of things. One should be able to bring that evidence to court as evidence of criminal activity. That is the proposition in the Bill. Only if there were a want of good faith in the opinion of the court hearing the charge - that is, that the warrant was not issued in good faith - can the evidence be declared inadmissible. That is basically what it comes down to now.

Whether the prosecution must prove good faith or whether the defence must overcome a presumption, which is what clause 11 says, unless the contrary is proved, one will produce the same people to test the issue of good faith - namely, probably not the Supreme Court judge but the warrant, the documentation that went with it, the police officers concerned, and so on. One will stick the police officers in the witness box and ask questions. The accused will also be able to bring his or her evidence to say, "I don't know anything about amphetamines; I have never dealt with them; here are half a dozen people who live in the house," and so on. The totality of the evidence is before the court dealing with a prosecution for car theft or unlawful possession of firearms, and the court then decides whether the warrant has been issued in good faith and, consequently, whether to admit evidence of criminal activity. That is what it is about and how it works.

One cannot reverse the logic without reversing the law and saying, "You can put into court evidence only of the criminal activity that was suspected when it has been found by the surveillance device; you cannot put into court evidence of criminal activity found corollary to that without proving good faith in the issue of the warrant and the discretion of the court being exercised in your favour." That is the case with regard to evidentiary law in many American States. In Australia, since 1975, that has not been the case. The member for Burrup wants to try to rewrite the Australian evidentiary laws. Good luck to him. He has until 5.30 pm. We have debated this subject yesterday and today. I am not saying that the debate is bad; I am just trying to make a point: Whom is the member trying to protect? Is it the person who commits the crime or the victim of it?

Mr Riebeling: People's rights.

Mr PRINCE: The member is trying to protect people's rights to pilfer.

Mr Riebeling: I am trying to protect a person's right to privacy.

Mr PRINCE: Privacy when they are committing criminal offences?

Mr Riebeling: No, privacy and an individual's right to a fair trial and to justice.

Mr PRINCE: They get a fair trial, but we are talking about -

Mr Riebeling: The minister cares about locking people up. He should try to look back at the history of justice and at giving a person a fair trial.

Mr PRINCE: I have done that more often than the member for Burrup has. Victims of crime will not thank him for trying to prevent the police from being able to bring legitimately obtained evidence of criminal activity.

Mr McGOWAN: In part, line 24 of clause 11 states "unless the contrary is proved". I suppose there are two standards of proof: The balance of probability and beyond reasonable doubt. However, it can also be construed another way. Often at law, a defendant merely must raise evidence.

Mr Prince: That is right, and that is the case here.

Mr McGOWAN: Is the wording not somewhat confusing? It implies a standard of proof.

Mr Prince: It is not a standard; it implies an onus.

Mr McGOWAN: From memory, there are two standards of proof: Beyond reasonable doubt, and balance of probabilities. Would it not be better to use the words, "unless evidence is raised to the contrary", or something like that?

Mr Prince: The words "unless the contrary is proved" mean the same thing, but the evidence must be persuasive and have weight.

Mr McGOWAN: The words of this clause might create some confusion in the future if a defendant was attempting to show that a warrant had not been authorised in good faith. A court that looked at this clause would say that a person had to raise evidence on the balance of probabilities. I am not sure of the exact wording of the Criminal Code with regard to automatism or self-defence, where it talks about raising some evidence which has to be rebutted by the Crown. I know that it is the balance of probabilities with regard to insanity.

Mr PRINCE: I understand the point the member is making. The member is a bit confused about the two standards of proof that are required. In a criminal case, it is proof beyond reasonable doubt, unless a particular section says otherwise, and in a civil case, it is proof on the balance of probabilities. We are talking here about an evidentiary onus, not a standard. The clause states, "it shall be presumed in that proceeding unless the contrary is proved". It is proof to the satisfaction of the court. The basis from which we start is the presumption that the warrant has been issued in good faith. If persuasive evidence is brought to overturn the presumption that the warrant has been issued in good faith, that is it. What is specified here is an evidentiary onus, not a standard.

Mr McGowan: The wording in the code, which is that a defendant has to raise evidence which is then required to be rebutted by the Crown, should also be used in this clause so that there is no confusion.

Mr PRINCE: It is not proof on the balance of probabilities. It is simply evidence that is cogent and persuasive.

Mr McGowan: That matter will have to be adjudicated by the court.

Mr PRINCE: That is the law at present. I have said a number of times in address to the jury that a defendant does not have to prove anything. All a defendant has to do is produce evidence which the court can then take into account; and if the court decides it is persuasive enough to require the prosecution to negative it, that is all the defendant has to do. The defendant does not have to prove the contrary in the sense of having to prove beyond reasonable doubt or prove on the balance of probabilities something that the prosecution has alleged. The defendant only has to raise evidence that is sufficient to overcome the presumption.

Mr McGowan: One rule of statutory interpretation is the literal rule, which states literally, "unless the contrary is proved". A court is bound by that literal rule.

Mr PRINCE: I am talking about the rules of evidence. The rules of evidence obviously come into play as soon as we start talking about an evidentiary burden; and that is what this is.

Mr McGowan: I am raising my concerns about this clause, and in future you may need to amend it.

Mr PRINCE: I understand what the member is saying. Perhaps at some future time the member for Rockingham will be prosecuting for the Crown and I will be defending, as I usually do, and we will see who wins.

Mr McGowan: You will be the defendant.

Mr PRINCE: The member should not be so rude. He has just imputed criminal conduct to me. He should be careful about that.

Clause put and passed.

Clause 12 put and passed.

Clause 13: Warrants for use etc. of surveillance devices -

Mrs ROBERTS: We had some discussion earlier about the seriousness of the offence, and the minister was at pains to point out that what was not mentioned here was the seriousness of the offence, yet the terminology in subclause 2(a) is "the nature of the offence or suspected offence in respect of which the warrant is sought". What legal interpretation will be placed on the nature of the offence? Can a warrant be granted only for a serious offence, or may a warrant be granted for a lower level offence?

Mr PRINCE: My advisers have pointed out to me that these resources will be used mainly for suspected offences at the

serious end of the scale; for example, drug trafficking and murder. However, a warrant may be granted for any suspected offence. For example, possession of an unlicensed firearm may incur a fine of $100, and on the scale of things may not be terribly serious, but one does not need to be a genius to presume that the shootings that have been committed over the past two days were committed with unlicensed firearms.

Mrs Roberts: I am not questioning offences at that end of the scale. We have had a debate about the leaking of government documents. Might a person who was suspected of leaking government documents be the subject of a successful application for a surveillance warrant?

Mr PRINCE: Yes, but the judge would need to consider paragraphs (a)-(f) of subclause (2). Paragraph (f) states that the court must have regard to the public interest. The judge would need to consider, for example, whether it was in the public interest to grant a warrant to the police to put a surveillance device into the home of a person who was suspected of smoking a joint of cannabis. In the scale of things, that is a relatively minor offence. Would it be in the public interest to use these resources in that way?

If a person who worked for a corporation was suspected of passing confidential information to a competitor - to take it out of the government sphere - the judge would need to consider whether it was in the public interest to use these resources to conduct some sort of surveillance of that employee, and what was the general nature of the information that this person was suspected of leaking or selling. That would need to be determined on a case-by-case basis. We cannot say it will apply only to serious offences, because the question of public interest must be considered.

Other considerations are outlined in paragraph (b) - the extent to which the privacy of any person is likely to be affected; paragraph (c) - the extent to which evidence or information is likely to be obtained by methods of investigation not involving the use of a surveillance device; in other words, whether the investigation can be conducted without the use of a surveillance device; and paragraph (d) - the intelligence value and the evidentiary value of any information sought to be obtained. Therefore, the judge is required to engage in a fairly sophisticated judgment process. The judge may determine that the potential leaking of certain government or private confidential information is of such a nature that it warrants putting in place a surveillance device, or the judge may determine that it is not of such a nature.

Mr McGOWAN: Will the terms of a warrant that is granted by a judge or magistrate be very complex so as to put in place specific limitations? For instance, a magistrate or a justice of the peace may grant a search warrant to a police officer to search for specific goods. The police officer will then knock on the door, produce the search warrant, and search for the goods. Optical surveillance devices, tracking devices and listening devices may sit in place for an extended period. They have the capacity to apply for a range of reasons which would never have been envisaged by a search warrant. If a magistrate or a judge grants a warrant for a tracking device which might apply to someone's car or for an optical surveillance device which might be placed in a person's living room to watch for drug deals or the like, will such devices be able to sit there for a year? Will those people have to worry about it over an extended period?

Mr Prince: The maximum period is 90 days. An application can then be made to renew it. Clause 13(8)(f) states "not longer than 90 days".

Mr McGOWAN: I presume the judge must be satisfied as to the period of time specified in the warrant.

Mr Prince: I would think so.

Mr McGOWAN: When the court grants a warrant for a surveillance device, say for someone's house, does that authorise the police to put a device in every room or do they have to specify which part of house? I suspect there are certain rooms in which no-one would want to place a surveillance device. I do not think the courts should be able to authorise the police to place these devices in certain areas or it should be specified in which rooms these devices may be placed.

Mr PRINCE: Magistrates can only be involved in tracking device warrants as stated in clause 12(b). All other surveillance devices must be issued by a judge.

Mr McGowan: Why is that?

Mr PRINCE: It is largely because a tracking device simply tells one where a vehicle is going.

Mr McGowan: It is less intrusive?

Mr PRINCE: I guess in a sense it is less intrusive. It is more about where the vehicle is geographically. If approval is given for a tracking device, it will probably state specifically "a device may be attached to this individual's Nissan motor car", and the registration number will be specified. It would depend on the evidence that was put forward to grant the warrant, as to whether it would state "any vehicle this individual may use". If, for example, a person is suspected of being a drug courier who might habitually hire motor cars in any place, one would expect to see a warrant that states "any vehicle that this individual may use" and the tracking device can be moved from one vehicle to another. It will operate case by case.

I will deal with the devices that are perhaps more intrusive in a private house. It will depend on the circumstances of the case. If it were a warrant, for example, to do with the manufacture of amphetamines - on the weekend the police broke a drug case in which forensic officers tried to remove chemicals and unfortunately some officers were burnt - the device will often be placed where there is running water, bathroom facilities, wash basins and things of that nature. One might not want to have one's privacy invaded when showering, going about one's toiletry and so on, but if that is where the criminal activity is taking place, a judge may be asked to approve a surveillance device in that part of the house.

Mr McGowan: You are saying the warrant would be specific.

Mr PRINCE: I suggest that the warrant will be specific as is required to meet the circumstances of the case. If the member is talking about the manufacture of amphetamines which involves a lot of running water, drainage and so on, the warrant may state "anywhere in the house" or "only in the kitchen and the bathroom" because they are the only places in the house where the manufacture of drugs can take place. It would be silly to limit the location of the surveillance device to some part of the house where the manufacturer of the drugs could not be seen. It will depend entirely on the case involved. Clause 13(11) on page 22 states -

> A warrant under this Division that refers to a surveillance device is taken to refer to such number of surveillance devices as the person to whom the warrant is issued reasonably believes to be necessary for the purposes of the investigation.

Fundamentally a judge is saying to the police that they are given the power to, as it were, breach the privacy of an individual by installing a surveillance device. More than one device may be installed and the situation will vary according to the suspected criminal activity that grounds the warrant.

Mr McGOWAN: It might be a gross invasion of a person's privacy if a police officer seeks a warrant for certain premises and is not specific about the rooms involved and places the devices wherever he wants. To prevent that scenario, is the minister saying the court should be specific in the terms of a warrant that is granted, or would a court authorise a warrant to apply only to a house? In other words, what mechanism do we have in place to protect people's privacy in areas where one would reasonably expect that these sorts of devices should not be placed?

Mr PRINCE: A similar process occurs with regard to telecommunications interception in that a warrant issued for that purpose can state specifically that, for example, "the police may intercept this phone service, but they may not intercept any calls from or to the person's solicitor". In other words, that specific restriction can be made. Clause 13(8)(j) on page 22 states -

> any conditions or restrictions subject to which premises may be entered or surveillance devices may be used under the warrant.

I am saying that the judge has the capacity to be prescriptive, but it depends on the subject matter. I have given the example of amphetamines. A camera may be located in the bathroom covering the toilet and the shower stall because people who are manufacturing drugs by mixing a number of chemicals will need to use that form of disposal as part of their operations. Obviously toilets are used for more natural purposes. However, a judge has the power to be specific. It will be a matter of balance and judgment with respect to each case. If a surveillance device is sought to be installed in premises where it is suspected that people are cutting down stolen cars, perhaps respraying them and doing things of that nature, one would not normally expect to find a surveillance device installed in the bathroom of the house connected to the large shed in which the activities takes place. One would expect to find it in the shed, or possibly in parts of the house where people may discuss their activities. In that hypothetical situation which nonetheless could occur, I would not expect to find the device in a bathroom. It will come back to the circumstances of each case as to what a judge thinks is the appropriate way to gain evidence of criminal activity.

Mr McGOWAN: It is interesting that the minister raises the example of the toilet and how the police might place an optical surveillance device or something like that there. Evidence that comes to the Police Force, which may not be of any relevance to the case, might be distinctly embarrassing to the person who is the accused. What sort of provisions and assurances does the minister have in place to ensure those records are destroyed and cannot fall into the public domain?

What restrictions are on the Police Force to ensure that officers do not reveal anything that comes to their attention and to ensure that any evidence that might be obtained in the form of videotapes does not end up in the local video shop?

Mr PRINCE: I understand the point made. I agree with the member entirely that it would be quite wrong if, as a result of this, some pathetic, salacious tape recordings were made.

Mr McGowan: It happens.

Mr PRINCE: I know it happens, and the member's example is perfectly reasonable and practical. Everything is recorded on the device and re-broadcast. Not all the data on that tape should become public in a trial, and only that part which is evidence of criminal activity should be presented as evidence and be seen by the public. For example, a video recording

of a young woman going to and from the bathroom and shower should not be broadcast in court because it could then be broadcast generally in the public sphere. I refer the member to clause 41(1)(b) which states that the Commissioner of Police, the Anti-Corruption Commission and the National Crime Authority subject to subsection (2), must destroy any such record or report if satisfied that it is not likely to be required in connection with the investigation of another offence, the decision on whether to prosecute, or the prosecution of an offence. That provides that the police must edit the data they have, whether it be video or audio, and delete that which has nothing to do with evidence of criminal activity.

Mr McGOWAN: What is the time frame and what penalties are imposed if someone makes a tape recording of a particularly interesting or salacious activity that is recorded? I have heard of videotapes being made, not necessarily by the police.

Mr Prince: Mostly by security cameras.

Mr McGOWAN: I can recall one that became public some years ago. I am sure the member for Alfred Cove will be familiar with it. I think it was a tape of Debbie Byrne. What penalties are in place in those circumstances?

Mr PRINCE: Clause 9 contains a general prohibition on any form of publication or communication of private conversations or activities. That would apply to the totality of the tape effectively, except that covered by clause 41(1)(b), and the general tenure of clause 41 is that the recordings relevant to criminal activity must be kept.

Mr McGOWAN: The provision in clause 12, which is relevant to clause 13, puts in place the requirement for all these warrants to be granted by a judge or, in the case of a tracking device, by a judge or magistrate. That is a good provision and a great improvement. I have always been concerned about search warrants, because a police officer can request one from any justice of the peace. Approximately 200 JPs live in the City of Rockingham area. Many of those JPs should be in those positions, but probably some have little knowledge of the rules relating to reasonable cause and so on. Police officers often call me because they want a search warrant, but I must refuse them because I am not a JP but am a commissioner of declarations. In any case, if I were a JP, I do not think it would be my role, as a member of Parliament, to issue a search warrant against a constituent. It would be a major conflict of public duties.

Mr Bloffwitch: I do not think it is. I have done it a couple of times. When desperadoes are on the run the police need something and I believe it is my civic duty to help them.

Mr McGOWAN: I do not think members of Parliament should judge whether someone is a desperado. That judgment is made by the court. It is not my role as a legislator to become involved in the judicial process. That is best left to others. Who are these desperadoes anyway?

Mr Bloffwitch: People who burgled the Mercantile Club. Police believed the money was still in the flat for which they wanted a search warrant. By the time they got it, the flat had been cleaned out but they got them on their way to Perth. I was trying to assist the police.

Mr McGOWAN: In any event, the member for Geraldton has his views and I have mine which are different. Two hundred people in Rockingham are JPs. I suspect Geraldton has just as many. These people have the capacity to grant search warrants, and a police officer has the capacity to shop around for a JP who will issue such a warrant. They can always obtain a search warrant from someone. I hope the Government will examine the option of requiring search warrants to be issued by magistrates.

Mr Shave: What about Sundays?

Mr McGOWAN: Magistrates are well paid people. Certainly they earn more than me, but perhaps not more than the minister.

Mr Shave: They may be well paid, but do they work on Sundays?

Mr McGOWAN: In any event, a roster must be in place of the people available, and that would become part of their duties.

Mr Bloffwitch: Do you think we should all have a role in assisting the police?

Mr McGOWAN: I would be interested to hear the comments of the Minister for Police. I am sure he will agree with me that, as legislators, we should not be involved in the administration of justice and making judgments about people, as the member did a moment ago. Others should do that.

Mr Bloffwitch: Doing the course for JPs certainly improved my knowledge of the law and it was an asset to me as a member of Parliament.

Mr McGOWAN: I am sure it was an asset to the member for Geraldton, but it does not detract from the principle I am raising.

Mr Bloffwitch: None of us sits on the bench. We make that a particular request that we will not sit on the bench.

Mr McGOWAN: I am sure that if the member for Geraldton did sit on the bench, he would become known as the hanging judge. Shoplifter - hang that man! That would be his approach, especially for stealing cars. Although I suspect that might mean more sales for him.

The DEPUTY CHAIRMAN: I suspect that members are getting off the point.

Mr McGOWAN: Perhaps we have found some new criminal activity we can investigate in relation to the desperadoes opposite. What does the minister have in store in relation to this matter?

Mr PRINCE: I refer to section 711 of the Criminal Code which is the principal power for the granting of search warrants. Reference can also be found to this in the Misuse of Drugs Act and other legislation. This is the original and it requires that evidence be given to the justice on oath.

Although it is possible to find a judge in the metropolitan area 24-hours a day, seven days a week because they are on roster and know they must be available, that cannot be done outside the metropolitan area; judges travel on circuit into the country. For example, in my home town of Albany the magistrate is available most of the time, but he goes on circuit approximately one week in four to cover other parts of the general area. If we were to rely only on stipendiary magistrates to sign warrants, we would need to say, "Who is available?" Justices of the peace are available. In repealing and replacing the Police Act, I intend to bring in a Bill concerning criminal investigation practice. That Bill will deal with search warrants. It may be used as an adjunct to the provisions of the Criminal Code, the Misuse of Drugs Act and others. It may be that we will repeal those and put in a section dealing with search warrants, how they may be obtained, and so on. It is a matter of which I am equally cognisant and intend to address in legislation which is currently being investigated and prepared. I hope to bring it into this Parliament in the next calendar year.

Mr McGowan: Do you agree there is a problem with these warrants?

Mr PRINCE: No. There is a problem with some, not all.

Mr McGowan: Everyone accepts that. I am saying there is a problem with some.

Mr PRINCE: There may be a problem with some. I have appeared before many justices of the peace during the years, and in defence of them, in the past 10 to 15 years an extensive program of training for justices has been implemented. They must attend seminars and courses and it has become quite onerous. Previously a person was made a justice of the peace with no training at all other than on the job training with the local magistrate.

Mr McGowan: It is a very unrewarding task.

Mr PRINCE: It is. However, it is also a very rewarding task, particularly for some of the more experienced and mature members of society, to be able to give something back to the community. In my experience most of them take it very seriously, particularly young people. Justices of the peace are far better educated and trained today than was the case 20 years ago. I believe overwhelmingly - particularly in my part of the world, which I know best - that they take the task of issuing a search warrant very seriously and do not just sign any piece of paper that is put in front of them. The member for Rockingham has two hours.

Mr McGowan: I thought I was raising some good points.

Mr PRINCE: I am not suggesting the member has not. I am making the point that he has two hours.

Mr McGowan: I am insulted by the imputation that I am not debating good points. Can the minister explain to me whether the warrants to be granted will be in a prescribed form laid down by regulations, or will they be general warrants?

Mr PRINCE: Yes, by regulation. The normal thing is for prescribed forms of warrants and other forms to be used under any piece of legislation. There will be prescribed forms for application and warrants and so on which will enable the process to be done with dispatch.

I move -

Page 20, line 9 - To insert after "premises" the words "adjoining or".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 14: Warrants for maintenance and retrieval of certain tracking devices -

Mr McGOWAN: If a tracking, optical or listening device is installed and breaks down and stops working - as probably half of them do - does another warrant need to be obtained in order to have it repaired?

Mr Prince: No. There is power in this Bill to enter premises for the purpose of maintenance of the device. We discussed this earlier.

Mr McGOWAN: You do not need a second warrant?

Mr PRINCE: No, there is no need to obtain a second warrant. The warrant gives power to enter premises to replace the device which then also gives power to install, and so on. Clause 14(3) provides that a court when issuing a tracking device warrant may authorise its temporary removal and so on for retrieval. Clause 14(1) and (2) do likewise. We talked about this when we debated clause 5. Permission to install includes - and obviously logically must include - the provision to service, whether it be by removing tapes or fixing it if it is not working.

Mr Baker: The definition of "maintain" includes that.

Mr McGowan: Owen Dixon is back in the Chamber again. It will be good to hear Justice Dixon's contribution to this debate.

Mr PRINCE: I think that is an offensive remark to the memory of Mr Justice Dixon.

Clause put and passed.

Clause 15: Applications for warrants -

Mr PRINCE: I move -

> Page 25, line 31 - To insert after "premises" the words "adjoining or".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 16: Radio/telephone applications for warrants -

Mr McGOWAN: A moment ago the minister raised a problem with people in the country seeking search warrants.

Mr Prince: That is why we must have justices.

Mr McGOWAN: What is the situation in relation to warrants when there is no access to a magistrate or judge?

Mr PRINCE: That is why we have clauses 16 and 17. These clauses enable a police officer in Broome, for example, who needs to install a surveillance device into premises - perhaps in relation to drug smuggling - to make application by radio, telephone or even video conference to a judge in Perth. The judge may hear the application and take evidence on oath, particularly by teleconferencing. He may then, by the same means, issue and fax the warrant. This clause gives the ability to gain access to this device anywhere in this State notwithstanding that judges are currently found only in Perth.

Mr McGowan: Is that the sort of situation that you have envisaged?

Mr PRINCE: I do not know. It is obviously something to think about. However, justices of the peace are very widely found. It would be in only some parts of Western Australia, probably the central desert, where they cannot be found. In Warburton a number of senior Aboriginal elders are justices of the peace. It would be a very rare part of WA where one cannot gain access to a justice of the peace. One can really find a Supreme Court judge or District Court judge only in Perth.

Clause put and passed.

Clauses 17 to 19 put and passed.

Clause 20: Emergency use of surveillance devices -

Mrs ROBERTS: With respect to the emergency authorisations and the emergency use of surveillance devices, the member for Rockingham has referred to the procedure of going before magistrates in country areas. I note that we have passed the clauses dealing with radio and telephone applications for warrants in clauses 16 and 17. Will the minister explain why we should also have a clause on the emergency use of surveillance devices? I would have thought that there was ample opportunity to go before magistrates, including duty magistrates, and also to be able to make radio and telephone applications for warrants. The minister might explain the reasons, but I do not see why there will also need to be this emergency authorisation category. I have some concerns that the category could well be misused. I would be much happier if the authorities went before a judge or at least made that application by radio or telephone, given the advanced state of communications these days. I do not see why the authorities need this category of emergency use of surveillance devices. Rather than debate clauses 20 and 21 separately, I note that clause 21 lists those circumstances in which the authorities can get emergency authorisation. Clause 21(1)(a) seems reasonable. Paragraph (b)(ii) reads -

> the use of a listening device, an optical surveillance device, or a tracking device is immediately necessary for the purpose of dealing with . . .

There follows a series of circumstances with "or" in between them, so it could be any one of those matters. For example,

it could be enabling evidence to be obtained of the commission of an offence, or the identity or location of the offender. Will the minister briefly outline why this extra category is needed, why the emergency use of surveillance devices provision is necessary, and why people cannot either go before a judge or make application by radio or telephone?

Mr PRINCE: The member for Midland raises a very fair point and question. Perhaps the best way I can answer that is to say that it is within the realms of conjecture that circumstances could arise in which authorities would not be able to obtain a warrant. Perhaps the remoter parts of the State are the best example. I refer the member to clause 21(1)(c)(iv) which refers to clauses 15 and 16.

Mrs Roberts: If clause 21(1)(c)(iv) contained the word "possible" as opposed to "practicable", I would not have a problem.

Mr PRINCE: An application by some other form of remote communication may not be possible and may not be practicable. In one sense I suppose it is the same thing. For example, if there is a potential drugs seizure of drugs which have come in over a beach; in other words, it is not in an urban area but in the north of the State. Let us say that the authorities are some distance from what is happening and they are carefully watching what is happening because they want to get the next people in the chain. Let us say that people are heading for a building in which they will no longer be able to be observed. If the authorities can get the device into the building, they will be able to put the people under surveillance when they get there. It may be the meeting place. The authorities did not know that it was to be the meeting place until it became obvious in the people's travel that it is where they are headed. The authorities would put the surveillance device in so that they could gather evidence of what happens inside, such as meeting up with the next chain in the link. It could involve aircraft or vehicles that suddenly meet. The authorities could not know about it. In other words, here are the authorities perhaps in the middle of a remote area and distant from an urban centre without the capacity to be able to talk to a Supreme Court judge by radio or telephone or any other means but there is an urgent need, which is what the trigger is, such as an imminent threat of serious violence to a person or of substantial damage to property such that an indictable drug offence or an external indictable drug offence has been or may have been committed. The circumstances are very limited.

Mrs Roberts: Do the authorities have to meet the criteria in paragraphs (a) and (b)?

Mr PRINCE: It is the criteria in either paragraph (a), (b) or (c).

Mrs Roberts: That is my difficulty. I do not have any problem with paragraph (a) if there is an imminent threat.

Mr PRINCE: Paragraph (b) refers to an indictable drug offence, which is basically trafficking or dealing when the circumstances are so serious or of such urgency that the use of the device in the course of the duty of the police officer, customs officer or whoever is warranted. I grant the member that the empowerment is something that we should be suspicious of but it reflects the nature of the fact that there are 2.5 million square kilometres of Western Australia. If this were happening in the metropolitan region, the answer would be to pick up a mobile phone or get on a land phone and talk to the duty Supreme Court judge and get the warrant. If this were happening, say, somewhere inland of Shark Bay and the radio systems because of the nature of the day were such that the radio did not work and there was no mobile phone coverage and the authorities could not talk to a judge and yet they were tracking a major drug matter, the investigative powers of the policing authorities should not be restricted because the events occur in a remote place. Why are the crooks there? It is because it is remote. The Bill refers to some very special circumstances here. I do not think they will happen often but when they do they should be covered. Some years ago a similar event happened in the vicinity of Albany. The intention was to bring a drug haul ashore along the south coast well away from Albany. There is no way there would be any way of communicating with anybody.

Mrs Roberts: There would be these days.

Mr PRINCE: There is no mobile phone coverage there. As it happens, the way the dealers behaved was so suspicious that the locals got suspicious and told police who knocked them off. I move -

Page 30, line 16 - To insert after the word "premises" the words "adjoining or".

Mrs ROBERTS: I have some concern about applying for a warrant for one premises and then incorporating an adjoining premises. Why is that necessary?

Mr PRINCE: This provides the ability, for example, to be able to enter into the shed of a premises to put a device in that is able to observe the adjoining premises.

Mrs Roberts: Why should authorities be able to enter the property of someone who is not involved?

Mr PRINCE: That may be where they should be able to place the device.

Mrs Roberts: It is a property on which the authorities would be trespassing.

Mr PRINCE: They would not be trespassing.

Mrs Roberts: If they did not have a warrant they would be.

Mr PRINCE: Clause 20(g) states -

> enter, by force if necessary, into or onto premises where a specified object is reasonably believed to be or likely to be, or other premises adjoining or providing access to those premises . . .

A stolen car might be parked in a shed. If one puts a surveillance device in the shed - there is no electricity there and it is dark - and if someone comes along in the middle of the night and takes the car away, one may end up with absolutely nothing of value in the sense of being able to identify those who took the car. However, if one put the optical surveillance device on the house down the track, where there is light and power, and the optical device was outside and it can magnify moonlight and so on -

Mrs Roberts: In which case you might not have to apply for a warrant.

Mr PRINCE: No, because one cannot do that unless one has a warrant in the first place, otherwise it is illegal. The device is on an adjoining building. My adviser tells me that one needs either a warrant or an emergency authorisation to do that. The example that I gave was reasonable. One might want optical surveillance of a particular area where someone has hidden something.

Mrs Roberts: I realise that there might be reasons for doing it, but again it is a balancing act when we give the police additional powers to enter properties for the placement of such devices. Such properties are potentially owned by other people and they may have no relation to the crime or suspected crime.

Mr PRINCE: That is right. That is why the warrant must be issued to enable that to be done, and that is why, among other things, under clause 13, which relates to the public interest -

Mrs Roberts: I do not want to argue it now, but in the case of an emergency authorisation as opposed to a telephone or radio application, the clause should be more strict.

Mr PRINCE: Possibly, if we consider the imminent threat of serious violence to a person or substantial damage to property. Let us consider heavily fortified premises where we suspect criminal activity and we cannot get in. We might want to put optical surveillance in buildings nearby to observe as far as we can what is going on. That may be a current matter. I do not know whether it is or it is not.

Mrs Roberts: That is right. They might put one in your house or in your next door neighbour's house.

Mr PRINCE: The person who watches the tapes will be bored witless.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 21: Emergency authorizations -

Mr PRINCE: I move -

> Page 34, line 9 - To insert after "(8)" the following -
>
> (f),

Amendment put and passed.

Mr PRINCE: I move -

> Page 34, line 22 - To delete "Judge and" and substitute "Supreme Court and".

Mrs ROBERTS: The clause states that -

> A person to whom an emergency authorization has been issued under subsection (1) must deliver without delay a written report to a Judge -

What is the interpretation of the words "without delay"? The time in which one is delaying is the time in which one may illegally have a device in place.

Mr PRINCE: I suppose that is possible. The best definitions that I can think of all arise from the Road Traffic Act to do with when to report an accident. The Road Traffic Act says "forthwith", which is somewhat old-fashioned, perhaps, and it has been interpreted to mean as soon as one possibly can.

Mrs Roberts: Is that the interpretation of this clause, though?

Mr PRINCE: Hang on. If one is engaged in an operation to try to detect criminal activity - in other words, one is tracking people - and one puts in a surveillance device, because that is part of what one is doing right now, one cannot report right now to a judge. I think that as soon as one could, one would go to a communication device that enables one to talk to a judge and one would then report. If, however, one completes the operation, nabs the bad guys, charges them, slams them in the local lockup and so on and then goes out and has steak, eggs and chips, sleeps the night and then gets on the train and goes back to Perth, that is delay.

Mrs Roberts: I am not concerned about cases in which you manage to nab bad guys and put them away. I am concerned about situations in which a device is put in place without due cause in the case of an emergency authorisation and that, potentially, the device should not have been there, no crime has been committed, there is no reasonable belief, and the judge eventually knocks it out.

Mr PRINCE: I understand that. It can be put in only when one cannot get to a judge to seek a warrant in the first place. One should seek to go to a judge as soon as one can, with one's report. If one does not do that - in other words, if one delays - until the following day or whatever the case may be, that is delay.

Mrs Roberts: I would be comfortable with the words "forthwith" or "as soon as possible", but I am concerned that the term "without delay" may be vague and may leave a greater window of opportunity for people to do the wrong thing.

Mr Baker: Other legislation mentions "as soon as reasonably practicable thereafter". That allows someone to take account of all factors and circumstances at the time.

Mrs Roberts: For example, can someone say, "It was my wife's birthday"?

Mr PRINCE: No, that is delay; it is not on. Under clause 21 one can do that only when there is an imminent threat, a major drug matter or a scheduled offence under the Anti-Corruption Commission legislation. One is then permitted to put in a device. As soon as one can after having done that, one must tell the judge. If one does not do that as soon as one can - that is, one begins to delay the report to the judge - one breaches the clause.

Mrs Roberts: What about if someone was not on duty?

Mr PRINCE: That has nothing to do with it. One is on duty 24 hours a day. One might be working a shift, but one is on duty all the time.

Mr Riebeling: Are they paid for that?

Mr PRINCE: Yes.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 22 and 23 put and passed.

Clause 24: Interpretation -

Mrs ROBERTS: Part 5 was inserted in the Bill since it was before the Chamber last year, and includes a new definition of public interest. I am aware of some of the reasons for the new part 5, "Use of Surveillance Devices in the Public Interest". Was it included to overcome problems created by the Bill for Fisheries enforcement officers, the mental health department, media, private investigators, inquiry agents and the like in conducting their business while using a surveillance device? How does the insertion of part 5 overcome part 4 regarding persons other than those persons specified in clause 15 who are required to make an application for a warrant?

Mr PRINCE: I did not have the carriage of this Bill until fairly recently, and I was not involved with these matters in the past year or so. I understand that part 5 was inserted to overcome the perceived problems when a parent may want some form of device installed to keep an eye on the activities of a babysitter. A number of such publicised cases, mostly in the United States I believe, have perhaps raised consciousness on that matter. It is perfectly reasonable. I understand that discussions with people ranging from security agents, the insurance industry and various media representatives led to the insertion of these provisions. I think the second reading speech states that in summary form.

Mrs ROBERTS: I appreciate that the minister has not always had carriage of the Bill, but is it correct that he met with representatives of the mercantile agents' association, the Insurance Council, the Insurance Commission of WA, insurance investigators and legal representation wherein the minister represented that part 5 was included in order that these parties could go about their normal accepted methods and practices, which are regulated by their respective legislation and licensing provisions? Is that not why the previous minister, the member for Darling Range, devised an exclusive clause to preclude such groups from the operation of the Bill? Did he undertake to include it so the legislation would be supported by the affected industry organisations? I understand that the previous minister claimed through the media that he had obtained industry support for the legislation. I am also advised that such support was received only on the basis of the inclusion of

the exclusion clause. That proposed amendment is not included in the current format of the Bill, despite the previous minister's undertaking. Why was it determined not to include that clause in the Bill?

Mr PRINCE: I have had one meeting with the people the member mentioned; namely, security and insurance people and Mr Groves, the lawyer who usually acts for the media in these matters. Most of the debate, particularly with the insurance and security people, related to the ability to continue to video people who are in receipt of some form of workers compensation or other form of compensation related to personal jury where there are grounds to suggest that the person is exaggerating the extent of the injury. Consequently, to give an example, they want evidence to show that the back is not as badly injured as it is claimed to be.

We debated at some length whether these security agents who work on behalf of the insurance companies should be able to continue in what they do. Most of them usually park a van on public property such as a road and use a video camera to record from some distance away. It may be a public road outside a house or an alleyway behind a house. Rarely do they go onto private property.

Mr Riebeling: The vision would go onto private property.

Mr PRINCE: It may well do so. Arguably, no problem is involved as they are taking vision which can be publicly seen in any event. If one put a motor vehicle, moving or stationary, on a public road, and records what one can see, it is not a private activity. Most of the videos I have seen in the past - I have seen a few, but not a huge number - have been of people working in their gardens or working inside a garage with its door open. In other words, activity was observed without trespassing on private property. This measure does not stop that happening.

Mr Riebeling: Are you sure of that?

Mr PRINCE: Yes, because it is not private activity. Consider the Bill's definitions and the concept of private activity, the observation of which is the only matter for which a warrant is needed. Activity which can be observed publicly is not within that definition. Mr Groves on behalf of the media was of the view that the legislation was not as tight as it could have been, and that it is capable of being tested in court. That may well be the case. The media may wish to take a video of activity of people from a public place looking into someone's private garden. If the activity can be seen by anybody standing on public ground, it is not private activity. It is questionable - I put this to Mr Groves - whether a camera could pursue a person into the corner of his or her carport. It is private property, even if it can be seen from public ground. This part was inserted in part as a result of the representations made by the insurance investigating people, mostly, by insurance organisations and, to some extent, by Mr Groves on behalf of the media. I think it provides a good balance. The exclusion is not included. If it were, it would give insurance agents and the media broader and greater powers than those given to the police.

Mr Riebeling: Why?

Mr PRINCE: They would be able to go anywhere.

Mrs ROBERTS: As the law currently stands, little prevents journalists or mercantile agents from entering property and taking other kinds of films. Under the terms of the legislation as proposed, this will become illegal.

Mr Prince: That is right.

Mrs ROBERTS: The minister contended that much of the surveillance work of mercantile agents and others is conducted in vehicles gathering footage of people gardening in their front yards and other such activity. However, it has been suggested to me that these agents are taking surveillance films in many other circumstances. The minister suggested that in those circumstances they would be trespassing. It has been put to me that there are many circumstances in which film is taken of private property without trespassing. For example, in a workers compensation injury claim a mechanic may be conducting a backyard operation, contrary to his insurance claim that he is unable to continue to work as a mechanic. His roller door may be closed, but these agents are able to wear a pin-hole camera that can be worn on a tie or lapel - I am told that in the Northern Territory they wear a camera on the side of glasses - and they will approach the person who may be working on a car in a shed. They have telephoned and perhaps said their car needs some work done on it, and they go around there. They have not trespassed, as essentially they have been invited onto the property and can then film that situation with a hidden camera. They may get film of the person working on a car, which he claims he is unable to do, or record the conversation in which he agrees to work on a vehicle.

Another example of where there has been no trespass, but footage is obtained, may be when someone knocks on one's front door. For example, a woman whose arm is in a sling is claiming to be unable to use her arm, yet one can hear the washing machine operating and other things are occurring. They may be able to get film as she comes to the door, or they may be invited in under some other pretence and film may be taken. I am told by representatives of that industry that that kind of situation, in which they have not trespassed but neither have they asked for permission to do that surveillance, is a common technique. Contrary to the minister's suggestion, these agents have huge concerns about their ability to continue to do their work as they currently do it. They advise me that presently in Western Australia $300m per annum is paid out on insurance

claims and the Insurance Council of Australia estimates that between 10 and 15 per cent of claims are fraudulent. Similarly, a report by the American Society of Industrial Security estimates that 15 per cent of claims are fraudulent. A report from the United Kingdom indicated that 3.5 per cent of claims are fraudulent. All of those jurisdictions utilise surveillance as a tool to minimise insurance fraud. They claim they will not be able to do their job effectively and as a consequence insurance fraud may largely go unchecked and that will be a cost that society in general must bear as a result of this legislation.

Mr RIEBELING: Can the minister clarify what constitutes private activity? I think the minister indicated that if it can be seen from the road it is fair game.

Mr Prince: Yes.

Mr RIEBELING: The minister's interpretation is different from the definition of private activity and private conversation in clause 3.

Mr Prince: A private conversation can take place in a public place, but a private activity arguably cannot.

Mr RIEBELING: The definition of a private activity in clause 3 indicates that if a party to the conversation or activity does not wish it to be filmed, any filming would contravene the Act. It also says that if it occurs in a place where one could reasonably expect it to be viewed or overheard that a warrant is not required. I understand that a listening advice not only records but enhances the sound. Let us say that a private detective wanted to listen to a conversation 50 feet away between Joe Bloggs and me, would he or she need a warrant?

Mr Prince: Yes. When we discussed this the example given was that two people in Forrest Place so manoeuvred themselves that clearly they wanted to carry on a private conversation. One would not be able to aim a parabolic microphone at them without a warrant to do so.

Mr RIEBELING: I do not have any great love of private detective agencies, but presumably people who are perpetrating an insurance fraud would never consent to being filmed or recorded.

Mr PRINCE: I disagree with the member for Burrup. The classic case is a person with an injury caused through a motor vehicle or workplace accident. In order to obtain weekly payments, he must sign all sorts of bits of paper. All that insurance company has to do is say, "Here's a notice that you may be the subject of surveillance", and under the terms of clause 27 they have impliedly consented to that surveillance. A claimant in any compo case is likely to be the subject of surveillance, to have a guy wandering around with a video camera. We all know that; it is common knowledge.

Mr Riebeling: Is that the case at the moment?

Mr PRINCE: No, it is not. I doubt that I can say anything more on clause 24 that is not self-evident.

Mrs ROBERTS: An anomaly has arisen since one arm of government has recently launched an expensive media campaign to dob in people.

Mr Prince: Which arm of government is that?

Mrs ROBERTS: Crime Stoppers.

Mr Prince: Crime Stoppers is not an arm of government.

Mrs ROBERTS: I am not sure it was initiated by Crime Stoppers.

Mr Prince: It was initiated by the Insurance Council.

Mrs ROBERTS: Is the minister saying that it has nothing to do with the Government?

Mr Prince: Crime Stoppers is a private organisation and it recently received an international award. It is funded by various organisations. I think the Insurance Council and various insurance companies have engaged Crime Stoppers to run that campaign.

Mrs ROBERTS: Perhaps the minister can explain the conflict of its aim - to get people to dob in others suspected of fraudulently claiming insurance payments - and this legislation. Competent lawyers and others have looked at it and are firmly of the view that it will make it difficult, if not impossible, for much of the surveillance work now undertaken to be carried out. The agents will be running the risk of court action and substantial fines if they are unable to prove that the surveillance was undertaken in the public interest.

Mr PRINCE: This legislation does not in that sense replicate current practice on the part of some insurance agents. It clearly states that if a private activity is going on, they may not use a surveillance device to record it unless they have a warrant. Something that is observable in a public sense is not a private activity. Insurance agents are able to use video cameras to record that which they see.

Mrs Roberts: We know that and there is no contention about it.

Mr PRINCE: If they go onto a person's property, on which they would otherwise be trespassing, and ask, for example, for repairs to be carried out on a vehicle - to use the example the member used previously - whether or not they have a video camera they have evidence that the individual who is claiming not to be able to carry on the business of a mechanic because of injury clearly is doing so. The evidence would be provided orally to the court that the agent had telephone conversations with that person and saw what work he was doing and so on.

Mrs Roberts: When they get these tapes they present them to the medical professional who has testified that this person has a certain level of injury. On seeing the tape, the medical professional changes his view.

Mr PRINCE: I know that; they are capable of continuing to tape people. However, under this legislation they are not able to go onto someone's property and videotape private activity.

Mrs Roberts: Obviously, if they are no longer able to undertake those activities those agents will not support this legislation.

Mr PRINCE: That is what they conveyed to me; they want to carry on what they are doing. Many of them never set foot on private property; they get all the evidence they need by parking a car or a van in the street a short distance away and observing a person over a period of days. They do not do anything other than observe a publicly observable activity. All the tapes I have seen - I have not seen many - have shown activities one can observe someone doing from the street.

Mrs Roberts: I must assess your personal experience against the information presented by these people, who are the legitimate representatives of the Mercantile Agents Association.

Mr PRINCE: But they want to be able to march into a person's home with a video camera. The principle in this legislation is that if a private activity is going on one cannot use a surveillance device to observe and record it without a warrant.

Mrs Roberts: Would not the laws of trespass prevent that?

Mr PRINCE: They are telling the member that that is what they are doing now.

Mrs Roberts: Only if they have permission.

Mr PRINCE: What permission?

Mrs Roberts interjected.

Mr PRINCE: In which case the permission is obtained by reason of subterfuge and fraud and is not valid, and the evidence obtained would not be admissible in a civil court.

Mrs Roberts: They are using it with doctors.

Mr PRINCE: They are showing the doctors something and the doctors change their opinion. They can tell the doctor what they saw. They can stay in the public domain and not go onto private property to videotape the activity.

Mrs Roberts: Their likelihood of success is much reduced.

Mr PRINCE: It is very high. Many agents do nothing but that. Where a person is receiving some form of monetary compensation for personal injury it is not hard for the insurance company to give notice they may be subject to surveillance. As soon as that is done, the implied consent in clauses 26 and 27 is triggered. However, we are debating clause 24, as the Chairman is about to point out.

The CHAIRMAN (Mr Bloffwitch): Yes. We are discussing interpretations. If we wish to discuss further clauses, we should move on to them.

Mrs ROBERTS: I am discussing clause 24 and it is a matter of public interest and interpretation. Can the minister clarify whether he considers the activities of those investigators in exposing the insurance fraud to be in the public interest?

Mr PRINCE: Yes, I do. I do not have any problem with that. What they are doing in the public interest is videotaping - which after all is a means of displaying the evidence of their own eyes - someone who is trying to obtain a benefit to which he is not entitled and to which the rest of the community contributes. That is certainly in the public interest. The question is whether the insurance agent should have the power of entry onto private property to take a video recording of private activity. The police cannot do that, although this legislation would empower them to. The member is saying that the insurance agents should be able to do it at any time.

Mrs Roberts: No, I am not.

Mr PRINCE: That is the result of what the agents are suggesting to the member.

Mrs ROBERTS: I was advised by the mercantile agents - I understand the minister was advised similarly - that, as the law stands, police officers, private investigators, journalists and the like can undertake covert surveillance of anyone.

Mr Prince: There is doubt as a result of the decision in Coco whether the evidence obtained is able to be produced in court.

Mrs ROBERTS: Because of the question of trespass.

Mr Prince: Yes. There is also the question in civil court compensation cases of whether the evidence the mercantile agents are obtaining will be able to be produced in court. The question of the tainting of the medical opinion must also be considered because the doctor has been shown something that is not admissible in evidence. The interests coincide.

Mrs ROBERTS: The argument is that there has been no evidence or public outcry about the activities the agents are undertaking. This legislation will prevent them from undertaking those activities. They also believe that that will mean many insurance fraud cases will not be successfully brought, and as a consequence we will all suffer.

Mr Prince: I realise that that is what they feel will happen. My understanding is that many of the mercantile agents do not have to, and do not, go onto private property and run the risk of trespass by subterfuge or otherwise. They frequently obtain perfectly reliable evidence that not only can be shown to a doctor but also can be admitted in court.

Mrs ROBERTS: I will not pursue that point. It is clear that the minister does not accept that the agents need to be able to do that to do their job.

Mr Prince: They will have to change to some limited extent the way some of them operate in some cases.

Clause put and passed.

Clauses 25 and 26 put and passed.

Clause 27: Use of optical surveillance devices in the public interest -

Mrs ROBERTS: The minister said that a party may undertake exactly the same activities as he is currently doing because clause 27(1) suggests that the "principal party to the private conversation consents expressly or impliedly to that use". I thought there was a difference between a person's consent to a use, whether that be express or implied, and that person being given a bit of paper or being informed that he may be the subject of surveillance. I am not sure under what right or law someone can inform a person that he may be the subject of surveillance. Someone could respond to that by saying or writing to the person who had made the statement or given him the piece of paper, "I do not consent to that." Where would that leave that person?

Mr PRINCE: Before I answer the member, there is an error in the print of clause 27 of the Bill. It states -

> . . . principal party to the private conversation.

The word "conversation" should be "activity", otherwise it does not make sense in the context of the clause. Parliamentary counsel picked this up some time ago and has advised the Chamber. With the indulgence of the member for Midland, I move -

> Page 38, line 27 - To delete "conversation" and substitute "activity".

Amendment put and passed.

Mr PRINCE: I will return to the point raised by the member for Midland. Clause 26(1) is written in exactly the same words as clause 27. Clause 27 states that a person who is a party to a private activity may use a device to record, if a principal party to that activity consents expressly. For example, if the member and I engaged in a debate in a private surrounding and we both said or implied that it would be recorded, there is no problem. An implication could be that the member and I, in what would otherwise be a private meeting - not a public meeting in a public place - go into a place with a number of people and cameras are set up and are clearly rolling. Impliedly, we consent to the meeting being recorded unless we say, "I do not want this recorded." That is a clear example of implied consent. If a person claims some form of compensation for an injury and, in the course of making the claim and the insurance company accepting that claim, the insurance company says, among other things, that the person may be subject to surveillance, it can be argued that there is implied consent. The point I am making may be subject to debate and some sort of judicial pronouncement at some stage. It cannot be done unilaterally, but notice of surveillance can be given. That is something that may be tried in the courts.

Mrs Roberts: What would someone assume by the fact that they were under surveillance in a public place?

Mr PRINCE: The insurance company is saying that the person has made a claim, and it reserves the right to send a mercantile agent around with a camera to observe what that person is doing. We all know that.

Mrs Roberts: They may well say, "Now we have this legislation in place, it is not legal to surveil me in a private place; it is legal to surveil me in only a public place."

Mr PRINCE: No, it is the private activity. We are not talking about the place; it is the activity.

Mrs Roberts: A person can say, "You cannot surveil me doing a private activity - washing my car or hanging the washing on the line."

Mr PRINCE: The definition of private activity states -

> any activity carried on in circumstances that may reasonably be taken to indicate that any of the parties . . . desires it to be observed only by themselves, but does not include an activity carried on in any circumstances in which the parties to the activity ought reasonably to expect that the activity may be observed;

Take for example, a backyard mechanic is working on motors and engines in his shed while he is claiming an inability to carry on business as a mechanic: If he does that with some sort of covering on the windows and the door closed, he cannot be observed. If the door and windows are open so he can be seen, clearly videos can be taken. If we want to take a video of his unlawful activity - as opposed to illegal activity - it must be done by some subterfuge. That subterfuge will be trespass and arguably the evidence obtained is inadmissible in a civil court. If it is used to persuade a doctor to change his opinion, I am surprised it has not been argued at length in court that the doctor's opinion was swayed by evidence he had seen which was unlawfully obtained. Most of the surveillance of activity is publicly observed by mercantile agents and is perfectly legitimate.

Mrs ROBERTS: Clause 27 mirrors clause 26 in this regard. Subclause (3) states -

> A person who has under his or her care, supervision or authority . . . if there are reasonable grounds for believing that the use of the listening device -
>
> (a) will contribute towards the protection of the best interests of the child or protected person; and
>
> (b) is in the public interest.

The argument put forward by the mercantile agents is that they prefer that the subclause read something like "a person may use an optical surveillance device to record visually the private activity where a principal party to the private conversation consents expressly or impliedly to that use or such use as is reasonably necessary for the protection of a person's lawful interest and that there are reasonable grounds for believing that the use of the optical surveillance device is in the public interest."

Mr Prince: Is that a rewrite of subclause (2) or (3)?

Mrs ROBERTS: It is a rewrite of clause 27(1). It seems to be a worthwhile suggestion from the association.

Mr PRINCE: I listened with interest to the member for Midland. I am prepared to consider that and perhaps the matter will be progressed in the other place, presuming this Bill passes as it inevitably will in 50 minutes. I draw the member's attention to division 3 which refers to the emergency use of listening devices in the public interest - it can be done - and likewise optical devices under clause 29.

Mrs Roberts: They are not likely to meet the criteria for emergency use are they?

Mr PRINCE: It depends upon the activity being observed. It will be a matter of whether a judge considers that the emergency use of the video camera is justified in the public interest, for example, observing somebody lifting well-liners when their back is supposed to be badly injured, or whatever the case may be. Under clause 30 there must be a report to the judge. If the judge regarded the mercantile agent's recording on video to be in the public interest, notwithstanding there is no consent and it is a breach of the Act, it would be up to him to rule on it. Mercantile agents who spoke to me do not like that because they want the guidelines to be very clear. The point I tried to make to them is that this Bill is not intended to replicate necessarily everything they are doing now. When this becomes law it is intended to enable devices to be used legitimately where privacy is being balanced against breaches of privacy in areas of suspected criminal activity, in this area to which we are now referring, in the protection of children and people who have some sort of mental illness and in protection in the sense that the public has an interest in people who are fraudulently claiming or exaggerating personal compensation injuries. It is difficult to come down with a hard and fast rule-book setting out what line one may or may not step over. This proposal is clear to me. It is up to the mercantile people and the insurance companies, insofar as they must, to modify what they are doing. Most will need to do very little to comply with this because most of them do their surveillance of what is publicly observable behaviour.

Mrs ROBERTS: I appreciate that the minister will undertake to examine proposed new clause 27. Will the minister also undertake to consider some other ways of dealing with the concerns which are quite legitimately made about mercantile agents who perhaps go too far or do the wrong thing? He might consider whether the relevant licensing provisions for mercantile agents could provide a mechanism that could control or limit the activities of the investigators as separate criteria.

Mr PRINCE: It is a reasonable suggestion which I am more than happy to examine. My first instinct is to see matters to do with surveillance, privacy and otherwise, in the same piece of legislation.

Clause, as amended, put and passed.

Clauses 28 and 29 put and passed.

Clause 30: Report to a Judge -

Mr PRINCE: I move -

Page 40, line 19 - To delete "cause" and substitute "caused".

Page 41, line 11 - To delete "Judge and" and substitute "court and".

Amendments put and passed.

Clause, as amended, put and passed.

Clause 31 put and passed.

Clause 32: Application for a publication order -

Mr PRINCE: I move -

Page 42, after line 23 - To insert the following subclauses -

(2) Subject to subsection (3), an application for an order under section 31 may be made upon notice or *ex parte* as the Judge thinks fit.

(3) An application by a law enforcement officer for an order under section 31 is to be made *ex parte*.

Page 42, line 25 - To insert after "application" the words "for an order".

Amendments put and passed.

Clause, as amended, put and passed.

Clause 33 put and passed.

Clause 34: Possession of surveillance device for unlawful use -

Mrs ROBERTS: This clause contains some reasonably substantial penalties which are appropriate, including, for instance, where police officers and other law enforcement officers breach the law with surveillance devices. However, given that they are substantial fines, this is part of the reason the mercantile agents, journalists and others are concerned that they are reliant on some determinations or precedence being set by courts and that they could unintentionally run foul of the law, particularly under the definition of public interest, when they may genuinely believe that what they are doing is in the public interest.

A judge may not share that opinion subsequently. Like all businesses, certain expenses are involved which in this case can include very expensive cameras, costing many thousands of dollars, as no doubt do some of the telescopic lenses and other pieces of equipment that they use. Being subjected to a fine of that nature could impact on them greatly. That is why I want the minister to revisit some of the provisions in part 5 which these people do not believe will enable them to do their job to the extent they want. At the very least, it will cast some doubt on the legitimacy of some of their work, particularly with respect to the definition of public interest and having to argue that in a court which, in itself, is an expense. On top of that, they run the risk of these heavy penalties.

Mr PRINCE: I understand the point made. I make the observation that the amounts of money and term of imprisonment specified are maximums, not minimums. A court has the capacity and discretion to deal with any offence on the facts as adduced before it. Perhaps the court will take into account the fact that someone has been a little overzealous, but otherwise is trying to be law-abiding. Someone who flagrantly breaches the law - by that, I mean a person who gets a listening device or a surveillance device and plants it in someone else's house - should be subject to a penalty of close to the maximum.

Mrs Roberts: It is not the kind of offence for which people can get legal aid. The court expenses are probably more prohibitive than the fines.

Mr PRINCE: If people can afford to buy a very small, high resolution video camera and microphones and plant them in someone else's house, they can readily afford to pay for their own legal representation and fine. That equipment does not come cheap.

Mrs Roberts: That is a pretty arrogant thing to say, given that many people borrow money to buy these things.

Mr PRINCE: I am not talking about mercantile agents. I am talking about people who are using expensive equipment to bug people's property illegally. If they get caught, they should be able to wear the cost of their representation, fines and so on.

Mrs Roberts: We have no point of difference on that.

Mr PRINCE: A mercantile agent who is using relatively expensive equipment in the course of employment and who perhaps

oversteps the mark, but otherwise is not engaging in a criminal activity, would have those circumstances taken into account by the court.

Clause put and passed.

Clauses 35 to 39 put and passed.

Clause 40: Forfeiture -

Mrs ROBERTS: The point I made about fines also relates to this clause. These people will run the risk of forfeiting that very expensive equipment to which we have already referred.

Mr PRINCE: I bring to the attention of the member the provisions in subclause (3). Here we are enabling a court to order forfeiture of sophisticated listening devices which are being used illegally and giving them to law enforcement agencies to use lawfully.

Mrs Roberts: I have no objection to that, but what happens when people inadvertently have been a little overzealous?

Mr PRINCE: If a mercantile agent appears three or four times before the court on a series of separate offences, obviously he is not just being overzealous, but is ignoring the law, and the court may then rule that that person should have the equipment forfeited. If that is the law, that person must obey the law.

Mrs Roberts: On a first occurrence the mercantile agent would not have the equipment taken from him?

Mr PRINCE: It would be possible, but highly unusual. The person who, for example, puts a video surveillance device in a ladies' toilet block should have that surveillance device confiscated and that device should be used for more legitimate purposes. That example is a contrast in extremes.

Clause put and passed.

Clauses 41 to 44 put and passed.

Clause 45: Repeal and transitional -

Mrs ROBERTS: We may have already covered this issue before. If we have, I cannot recall the answer that was given. What provision is there for a review of this legislation, given that it is very broad and all-encompassing and it is new legislation? Did we get any undertaking in terms of a review of this legislation?

Mr PRINCE: I recall a couple of weeks ago that we talked in the early part of the debate in Committee on the question of review.

Mrs Roberts: I think the member for Nollamara asked about it.

Mr PRINCE: Yes, I think that is right. It is a pity he is not in the Chamber. As far as I can recall, I thought it was advisable that there not be a review for five years. In part, that is because court litigation may arise from some of the provisions of this legislation, and that takes time. Consequently, if there should be amendments as a result of particular cases coming to court with various results coming out based on the interpretation of public interest or whatever, in a sense that is a review. Therefore, surely it is advisable to look at this legislation for review purposes in about five years. It is a little difficult to say that it should be reviewed in five years or three years; however, I suggest that it will be reviewed as it is put into practice and there are found to be things that could be done better, changes required or anomalies to be dealt with.

Clause put and passed.

Clause 46 put and passed.

Title put and passed.

Progress reported.

ADJOURNMENT OF THE HOUSE

MR BARNETT (Cottesloe - Leader of the House) [5.01 pm]: As members are aware, the Surveillance Devices Bill was subject to the sessional order. However, it has progressed through committee and some members may wish to comment on the third reading; on that basis, I move -

That the House do now adjourn.

Question put and passed.

House adjourned at 5.02 pm

QUESTIONS ON NOTICE

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

STATE FINANCE

Taxes and Charges

48. Dr GALLOP to the Minister for Primary Industry; Fisheries:

In relation to all the portfolio areas for which the Minister has responsibility -

(a) what fees and charges have been increased in the context of the 1998/99 Budget and the announcements made immediately prior to the Budget;

(b) what is the rate of increase for each of these in dollar and percentage terms;

(c) what is the estimated total additional revenue each of these increases is expected to raise;

(d) are there any other increases in fees and charges proposed for the financial year 1998/99; and

(e) if so, what are the details of these other increases?

Mr HOUSE replied:

AGRICULTURE WESTERN AUSTRALIA

(a) The Chief Executive Officer of Agriculture Western Australia has advised that for the 1998/99 financial year, most fees and charges have been increased by no more than the CPI. The following fees and services subject to Ministerial approval, will increase at a greater rate than CPI -

Cultivar determination by grow on tests
Weed seed presence tests
Seed processing works registration
Seed processing works renewal
Germination test
Pure seed content analysis

(b) The rates of increases vary.

(c) $0.223m in 1998/99. This increase relates to CPI increments of $0.052m and increase in services of about $0.171m.

(d) The increases proposed for 1998/99 provided under the Seed Acts Regulations 1982 as outlined in (a) above.

(e) The details of these proposed increases are -

cultivar determination by grow on tests an increase from $32.00 to $80.00;
weed seed presence tests to increase from $22.00 to $30.00;
seed processing works registration to increase from $207.00 to $300.00;
seed processing renewal to increase from $52.00 to $100.00;
germination tests from the standard fee of $42.00 to: group (1) $35.00, group (2) $40.00 and group (3) $45.00;
pure seed content analysis from the standard fee of $22.00 to: group (1) $25.00, group (2) $35.00, group (3) $45.00 and group (4) $60.00.

FISHERIES WESTERN AUSTRALIA

(a)-(c) Access fees for commercially managed fisheries have been budgeted to increase in the 1998/99 State Budget as part of the phased implementation of cost recovery (and other) arrangements. These fees (consisting of a cost recovery component and a Development and Better Interest Fee component) along with the basis for their determination were contained in joint understandings between myself and the Chairman of the peak industry body, Western Australian Fishing Industry Council. These understandings were documented in the 'Future Directions for Fisheries Management in Western Australia' (September 1995) and associated information. The cost recovery components are determined in accordance with cost attribution and recovery guidelines documented with industry. The access fee increases are the result of the application of arrangements previously outlined to the commercial fishing industry for phased implementation of cost recovery and the Development and Better Interest Fee. Provisional estimates of the likely level of 1998/99 access fees under cash cost recovery compared to the capped fees set for 1997/98 are outlined in Table 1 as follows -

Table 1: Industry Access Fees

Commercial Fisheries	Unit	Access Fees ($)(a)			Estimated Revenue		
		1997-98 Actual (b)	1998-99 Estimates (c)	% Change (d)	1997-98 $m	1998-99 $m	Additional Revenue $m
Major Commercial							
Western Rock Lobster	Pot	75	87	15.5	5.20	6.01	0.81
Pearling - Wildstock	Unit (f)	3599	4730	31.4	2.06	2.71	0.65
Pearling - Hatchery	Unit (f)	600	600	0.0	0.21	0.21	0.00
Shark Bay Prawns	Licence	19000	20500	7.9	0.51	0.55	0.04
Shark Bay Scallops - A	Licence	18830	22500	19.5	0.26	0.32	0.05
Shark Bay Scallops - B	Licence	5260	6500	23.6	0.14	0.18	0.03
Exmouth Gulf Prawns	Licence	19000	19500	2.6	0.30	0.31	0.01
Abalone - Zone 1	Licence	49000	75500	54.1	0.29	0.45	0.16
Abalone - Zone 2	Licence	43500	62000	42.5	0.35	0.50	0.15
Abalone - Zone 3	Licence	10000	19500	95.0	0.12	0.23	0.11
Minor Commercial	% of GVP (e)	1.79%	2.00%	11.7	0.50	0.80	0.30
				Total	$9.95	$12.26	$2.31

Notes:

(a) Includes a cost recovery component plus the Development and Better Interest Fee of 0.65% of GVP.

(b) The cost recovery component and DBI fee component of the 1997-98 Access Fees were capped under extended arrangements for phased implementation of cost recovery and the DBI fee. The industry was initially intended to be on full commercial cost recovery - including accruals - by 1997-98 which has now been extended out.

(c) 1998-99 fees represent provisional estimates at this stage and reflect the move to full cost recovery and the implementation of the estimated DBI fee increase.

(d) The percentage changes are greatest for those fisheries which have been at a proportionally lower level of cash cost recovery in the past due to fee capping under the phased implementation arrangements and lowest for those fisheries which have been at proportionally higher level of cash cost recovery in the past.

(e) GVP - Gross Value of Production. The GVP is currently based on the average weight of production per annum for the last five years applied to the current price.

(f) Fees for pearling were calculated on a per shell basis for 1997-98, but in 1998-99 a unit basis is proposed. A unit is equivalent to 1000 shells in 1998-99. The revenue collected for hatchery units is taken into account in calculating the access fees for Pearling Wildstock. The 1997-98 fee has been recalculated on a unit basis to provide a comparison.

(d)-(e) None.

FORESTS AND FORESTRY

Revenue

753. Dr CONSTABLE to the Minister for the Environment:

In each of the last ten years -

(a) what revenue has gone to the State Government in connection with the harvesting of Western Australian forests;

(b) who made the payment; and

(c) what was the payment for (including levies and royalties)?

Mrs EDWARDES replied:

(a)

Financial year	Revenue ($000) excluding Sandalwood
1988/89	46 087
1989/90	62 272
1990/91	65 624
1991/92	78 502
1992/93	87 032
1993/94	90 558
1994/95	106 963
1995/96	110 372
1996/97	107 389
1997/98	108 593

(b) For the period July 1994 to June 1998 customer records are stored in electronic data form and a list of those customers is set out below -

A & B MULCH
A & K JOINERY
A1 WALLISTON FIREWOOD & TREELOPPING
ADELAIDE TIMBER CO PTY LTD
AGK QUALITY WOODWARE
ANDERSON P
APPERDENE FOREST PRODUCTS
ASHFIELD SAWMILL
ASHKATE TIMBER CO
ATWELL C & CO
AUSWEST TIMBER
BALDOCK C W
BALMULNEW
BEAMAN DG & JT
BEAMAN G & C
BECCARELLI & CASTLE
BECHELLI BROS
BEDFORD BROS
BIBBULMUN TRACK PROJECT
BLACKWOOD TIMBER MILLING
BOB'S TREE LOPPING SERVICE
BUNGARRA CRAFTWOOD SUPPLIES
BUNNINGS FOREST PRODUCTS
BUREK H
CACKLEBERRY FARM
CAPE TO CAPE AGRICULTURE TIMBER SUPPLIES
CAPEL TIMBER SAWMILLING CO
CARDOSO PTY LTD
CENTRAL DISTRICTS EMPLOYMENT
CHOWERUP TIMBER MILL
COCKBURN SAWMILLS
COLI TIMBER PRODUCTS
CREATIVE MILLING
CROUCH LM & EA
DAWSON & SONS
DE RUSETT BL & BF
DEADWOOD SAWMILLING
DENBARKER SAWMILL
DESERT TIMBER PRODUCTS
DIRECT TIMBER SUPPLIES
DRYANDRA TIMBER PRODUCTS
EATON K R & S M
FERGUSON C J

FOREST FLOOR CRAFTWOOD SUPPLY
FRANCIS BRADLEY R
FRANEY & THOMPSON
FREDERICKS J & S
FULLGRABE A H
GANDY TIMBERS PTY LTD
GISBORNE TIMBER PRODUCTS
GOLDEN MILE TIMBER
GOLDFIELDS BOUTIQUE TIMBERS
GOLDFIELDS WOOD SUPPLY
GRAY B & P
HAMILTON SAWMILLS
HATFIELD S R
HOUSE JA
HUNTER MAX
INGLEWOOD PRODUCTS GROUP
J & K SAWMILLS
JAKEN CONTRACTORS
JARRAH CASE FACTORY
JARWOOD SUPPLIES
JOHNSON T
JUST SLABS
KENNEDY D G & D M
KOPPERS (AUST) P/L
LAMB ENTERPRISES
LESMURDIE FIREWOOD SUPPLY
LEWISAW P/L
LIME INDUSTRIES
MADER K
MALATESTA D
MANGEE MILLING (WA) PTY LTD
MARK R & MICHAEL T
MCLEAN RECYCLING INDUSTRIES P/L
MERENDA TRANSPORT
MIDDLESEX MILL PTY LTD
MIDWAY SAWMILLS
MILLWOOD FOREST PRODUCTS
MINORBA GRAZING CO
MOTTRAM C D & SONS
MULLER F & CO
MUNUT G FAMILY TRUST
MURPHY K L & G
MURTAGH G
NATIVE HARDWOODS PTY LTD
NEEDAC
NETTLETON B
NORTH WALPOLE SAWMILLING
OWENS B A
PALLET & TIMBER SALES
PANELLI SAWMILLS
PARAQUAD ASSOCIATION OF WA
PEMPINE PTY LTD
PEPPER A JH
PICKERING BROOK SAWMILLS
PIERI TIMBER SUPPLIES
PINETEC
PINNER A R
POWER K D
READHEAD OWEN
REEVE TG & MA
REID G
RICHARDSON C M
RIDOLFO V & D
ROCKY GULLY SAWMILL
ROPER G A
ROSSI L
ROYCROFT K & C
RUSSELL CC & J
S F & P J CONTRACTS
SPD WOOD SUPPLIES
SAUNDERS G W & N L
SAXON HOLDINGS
SIMCOA OPERATIONS PTY LTD
SLATER RL & PA
SMITHBROOK MILLING
SOUTH WEST HARDWOODS

SOUTH WEST MOBILE TIMBER MILL
SOUTH WEST RURAL FENCING SUPPLIES
SOUTHWEST SAWMILL/CO PTY LTD
SOUTHWEST TIMBER SUPPLIES
SPARAN P/L
SPECIALISED FIREWOOD SUPPLY
STEFANELLI SAWMILLERS'
TAYLOR B & PM
TAYLOR B L
THE AXEMANS COUNCIL OF WA
THOMSON N G & L B
THOMSON C
TILBROOK T M
TIMBER TREATERS (WA) PTY LTD
TIMELESS TIMBER TREASURES
VAN CHAC NGUYEN
VLAK K
WA CHIP & PULP CO LTD
WAKE & BEACHAM SAWMILLERS
WALLBANK C A
WALSH M
WARD R
WAUGH R
WAUGH RJ & TJ
WAUGH'S FOREST SERVICES
WELSH P
WESFI MANUFACTURING PTY LTD
WESFI MANUFACTURING PTY LTD (DARDANUP)
WESPINE INDUSTRIES P/L
WESTERN CASE & JOINERY WORKS
WESTERN PINE ASSOCIATES
WHITE ANT WILLIE
WHITE BROS CONTRACTING
WHITELAND MILLING
WHITTAKERS LTD
WINFIELD I J
WORSLEY TIMBER PTY LTD
YORNUP MILL PTY LTD
ZANKI I & G

For the period July 1991 to September 1994 the only records available of customer transactions are the original receipts which are filed in receipt order number not by customer number and includes customers other than log timber. It is estimated that there are in excess of 45 000 receipts which would require sorting. I am not prepared to incur a high cost to process these receipts manually to obtain the information requested. For the period July 1988 to June 1991 there are no records of customer transactions having been destroyed after six years in accordance with Treasurer's Instructions 804 (2)(i) and (3).

(c) Revenue received and retained by the State Government resulting from the sale of forest produce sourced from State forest, Timber reserves and other CALM managed land comprises a number of price components. These are -

(i) Royalty or stumpage, and

(ii) Harvesting charges made up of roading charge, administration charge, In-forest charge, production costs and delivery costs.

A levy is collected from some log buyers on behalf of the Forest Industries Federation (WA) Inc and then passed on to the Federation in the course of CALM invoicing those buyers for logs purchased from CALM.

MAGISTRATES' VISITS TO WYNDHAM

802. Mr BROWN to the Parliamentary Secretary to the Minister for Justice:

(1) What is the frequency of the Magistrate visiting the town of Wyndham?

(2) Are there times when Magistrates' visits may not take place for some four or five weeks?

(3) Has the Government given any consideration to allowing Magistrates to deal with some issues by way of teleconferencing?

(4) Will the Government give consideration to investigating the use of teleconferencing or some other arrangement that enables Magistrates to deal with bail applications without delay?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

(1) At present once every three weeks.

(2) Yes.

(3) Yes. The *Acts Amendment (Video and Audio Links) Bill 1998* is currently in Parliament. This Bill will enable judicial officers to deal with a range of matters by video and audio links.

(4) Yes. Under section 86A of the *Justices Act 1902* Magistrates can deal with bail applications and remands by video link. The Ministry of Justice is presently expanding video facilities to country regions to facilitate better court operations.

QUESTIONS WITHOUT NOTICE

MAIN ROADS WA, LEAKED DOCUMENT INVESTIGATION

225. Ms MacTIERNAN to the Premier:

On 10 January this year, the Commissioner of Main Roads said that the police were not called to investigate the leaking of the Matson report because the document was not confidential, yet on Tuesday, 13 October, the Premier claimed that the leaking of this document was a criminal offence.

(1) Is the Premier claiming that the leaking of a non-confidential document is a criminal offence?

(2) If it is a criminal offence to leak a non-confidential document, why were the police not called in to investigate the matter?

(3) How does the Premier reconcile his attack on the leaking of a non-confidential document with the recommendation by the Commission on Government that all non-confidential documents should be publicly available?

Mr COURT replied:

(1)-(3) I do not profess to be a lawyer, but I am advised that if the member reads section 81 of the Criminal Code, which refers to the disclosure of official secrets, the member will have the answer. Section 81 states -

> (1) Any person who, being employed in the Public Service, publishes or communicates any fact which comes to his knowledge by virtue of his office and which it is his duty to keep secret, or any document which comes to his possession by virtue of his office and which it is his duty to keep secret, except to some person to whom he is bound to publish or communicate it, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.
>
> (2) Any person who, having been employed in the Public Service, publishes or communicates any fact which came to his knowledge by virtue of his office and which it was at the time when he ceased to be so employed his duty to keep secret, or any document which came to his possession by virtue of his office and which it was at the time when he ceased to be so employed his duty to keep secret, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

As I said with regard to the leaking of that information, it is a criminal offence.

PREMIER, LEAKING OF GOVERNMENT INFORMATION

226. Ms MacTIERNAN to the Premier:

I ask a supplementary question. Has the Premier ever leaked or caused to be leaked government information or documents? The Premier should be careful, because there are people in the press gallery who know the truth of his answer.

The SPEAKER: Order! Supplementary questions are at my discretion. The rule that we are trying to cement into everyone's mind is that it must be a straight, single question, not little statements and backup arguments.

Mr COURT replied:

I am not aware of having leaked government information.

KEEPING FAMILIES TOGETHER SERVICE

227. Mr BAKER to the Minister for Family and Children's Services:

I recently launched the "Keeping Families Together" service, to be conducted by the Mofflyn organisation out of the Granny

Spiers Community Centre in Heathridge. Can the minister inform the House of the objects of this service, and of the nature and extent of any financial assistance provided to this service by the Government at other locations in the metropolitan area?

Mrs PARKER replied:

I thank the member for this question about the Keeping Families Together service, which effectively works in two ways: Preventing families from splitting up, and helping families to deal with their crises through counselling and advice; and reuniting with their families children who have been separated and placed into care. Mofflyn has the service contract in the member for Joondalup's area and has two service agreements with Family and Children's Services in the northern suburbs, in addition to one that operates across the metropolitan area. One of the programs receives $732 000 a year and can help up to 36 families at a time. The other program receives $100 000 a year and can work with up to 10 families at a time. A further $600 000 a year is given to Wanslea Family Services under the Keeping Families Together service to work with up to 30 families at a time. I commend these organisations not only for the services that they provide under these contracts but also for all of the work that they do. They make a fine contribution to the community of Western Australia.

WORKSAFE WA, MR NEIL BARTHOLOMAEUS

Minister's Support for Conduct

228. Dr GALLOP to the Minister for Employment and Training:

Is the minister compromised in his relationship with trade unions in his new portfolio given the conflict between Neil Bartholomaeus' account of the minister's support for his unethical conduct and the minister's claims that he did not discuss or approve the former WorkSafe commissioner's press release announcing a six-month ban on receiving safety complaints from unions? Will the minister now take the opportunity to give an account of his role in this matter?

Mr KIERATH replied:

I do not think it will compromise my relationship with trade unions. I have always said that law-abiding trade unions have nothing to fear from legislative changes made in this State. That has always been the case. I have always said that those trade unions breaking the law have every reason to fear legislation in this State. As with all members of this place, trade unionists must abide by the laws of the land. If members opposite pulled away from the incident referred to, and looked at this matter objectively they would recognise that a bunch of thugs entered the premises, threatened someone, went to court, and were convicted and fined for the offence. I did not hear members opposite criticise those people. I did not hear one word of criticism from the Opposition. Opposition members should loudly condemn that type of action, whether it involves trade unions, members of the public, a bikie gang or whatever. They should have condemned it and they have not. By their silence, members opposite stand condemned. I do not find any conflict at all. I always said in my previous role that if law-abiding unions used the legislative changes they could flourish and prosper.

WORKSAFE WA, BARTHOLOMAEUS, MR NEIL

229. Dr GALLOP to the Minister for Planning:

Did Mr Bartholomaeus tell the truth when he told Commissioner Saunders that the Minister for Planning, when he was Minister for Labour Relations, had approved of the policy and had added to it to strengthen it?

Mr KIERATH replied:

Mr Bartholomaeus talked to a media secretary in my office and had a discussion with him. At no stage was that press release ever given to me for approval. I remember that because I was angry the position had been taken without seeking my approval. Mr Bartholomaeus discussed it with a member of my office staff and it is possible that he thought, because the media secretary had been involved, it had my approval.

Dr Gallop: You are blaming the secretary now. Will you accept responsibility for anything?

Mr KIERATH: I will come to that; I am giving the facts. Any chief executive officer who has worked with me as a minister - I have been consistent throughout every portfolio - will know of my procedure. If a document is presented to me that needs my approval, it is stamped to indicate either approval or disapproval and I sign and date it. If some document does not need my approval, it is marked with a noted stamp. That means I have read and noted the contents. That is my standard practice and those who have worked with me in government will be aware of it. No documentation relating to this matter has my approval stamp on it.

SHIRE OF WILUNA, MONITORING PANEL

230. Mr SWEETMAN to the Minister for Local Government:

What is the progress in the work of the monitoring panel currently assisting the Shire of Wiluna?

Mr OMODEI replied:

As in the case of the role of the Department of Local Government with the Town of Cottesloe, the use of a monitoring panel has proved to be a valid and valuable tool, although perhaps in the instance of the Shire of Wiluna the Opposition might also suggest that it is politically motivated.

Ms MacTiernan interjected.

Mr OMODEI: I thought the member for Armadale had enough last night. One member said it was the most entertainment he had had for a number of years.

Mr McGowan: You are on the canvas.

Mr OMODEI: Who is on the canvas? I wonder whether the Opposition might suggest that what the Government is doing in Wiluna is politically motivated.

Although the Shire of Wiluna adjoins the electorate of the member for Ningaloo, his advice and assistance has been especially useful in this situation. The panel consists of Mr Murray Lang, President of the Shire of Wickepin; Mr Peter Strugnell, former chief executive officer of the City of Kalgoorlie-Boulder; and a senior officer of the Department of Local Government, John Gilfellon. The panel was appointed to examine a number of issues at the Shire of Wiluna. Among the terms of reference is a focus on statutory compliance and relationships between elected members, bearing in mind that the president lives 300 kilometres from the shire office and the shire is experiencing some difficulty.

The panel has advised me of a marked improvement in the operation of both the administration and the elected members since the involvement of the panel. At the request of the council, the Executive Director of the Department of Local Government has agreed to extend the term of the panel until June 1999. The neighbouring Shire of Meekatharra, which is well managed and efficient, may be able to offer ongoing support to the Shire of Wiluna after the monitoring panel has completed its task.

BIKIE GANGS, ZERO TOLERANCE BY POLICE

231. Mrs ROBERTS to the Minister for Police:

I refer to the pictures of bikies shoving police officers around, which were broadcast on television news bulletins last night. Is the failure of police to lay charges of aggravated assault indicative of the way the Government intends to apply its policy of zero tolerance to outlaw motorcycle gangs?

Mr PRINCE replied:

I am not often at a loss for words but, truly, how on earth could the member ask such a stupid question? There was a dead body in the car and a couple of associates of the dead man turned up at the scene. One was the brother of the dead man and he wanted to look at the body. The police kept him away, as they should. He was obviously distressed and upset and there was some pushing and shoving. If the police decide to prosecute that person for assault, that is the decision of the police officer and he has that discretion.

Mrs Roberts: Is that zero tolerance?

Mr PRINCE: Does the member want to talk about zero tolerance? One thing that would help the police in dealing with outlaw motorcycle gangs and other forms of crime would be the Surveillance Devices Bill. This House spent an hour yesterday talking about one clause. Why? The Opposition did not agree with the clause under which if a warrant is obtained from a judge of the Supreme Court to install a surveillance device for a specific purpose, and evidence of other criminal activity is obtained, that evidence can be used in court. The member for Midland has a "pilfering is legitimate" mentality and that is her problem. She does not want to clamp down on criminal activity. I wrote to the Leader of the Opposition on 5 October and asked for the opportunity to discuss with him and his colleagues a process whereby law and order legislation could proceed through the Parliament with agreement on both sides. The Parliament needs goodwill on both sides of politics to progress law and order legislation.

Several members interjected.

The SPEAKER: Order! It has been an interesting interchange. I do not mind a little of that, but I object to the member for Joondalup and others who want to have their say too. They can ask a question. Too many members have been interjecting from around the Chamber. Has the minister nearly finished his answer?

Mr PRINCE: Yes. We have had hours of debate on that Surveillance Devices Bill. It is important, but it should be progressed. The Opposition is denying the police a very important tool in their fight against people who are involved in organised crime. Zero tolerance means exactly what the police are doing now. They have seized more than 50 unlicensed firearms, kilograms of explosives, and ammunition. An enormous amount is being done. Many police officers are involved.

FLAX-LEAF BROOM

232. Mr MASTERS to the Minister for the Environment:

The Busselton office of the Department of Conservation and Land Management has recently identified an introduced plant, the flax-leaf broom or *genista linifolia*, that is spreading rapidly into state forests within the south west. Can the minister please advise how CALM determines the potential threat from a newly colonising exotic plant such as the flax-leaf broom or whether urgent control actions are required?

Mrs EDWARDES replied:

CALM advises that it has a scheduled treatment for the infestation near the old Osmington school site, which I understand is the infestation to which the member refers. The infestation will be treated within the current financial year but will require ongoing treatment over several years to ensure success. Flax-leaf broom is recorded as having naturalised along roadsides and on disturbed lands from Muchea to Albany. With input from a range of community and agency stakeholders, CALM is developing a state environmental weed strategy that includes a ranking of weed significance based on environmental criteria. I am advised by CALM that flax-leaf broom is likely to be considered a low priority as an environmental weed in the context of threats from other weeds.

MAIN ROADS WA, LEAKED DOCUMENT INVESTIGATION

233. Ms MacTIERNAN to the Premier:

The report of the Premier's department tabled on Tuesday states that the Commissioner of Main Roads was aware of the costs that were being incurred in the private eye investigation and had agreed to the investigation proceeding beyond the tender threshold of $50 000.

(1) When did the commissioner agree to the investigation proceeding beyond the tender threshold?

(2) How was he made aware of the escalating costs?

(3) Why did the commissioner not make a formal written decision to waive the tender requirement as he was required under SSC policy 1.3?

Mr COURT replied:

I thank the member for some notice of this question.

(1)-(2) The commissioner held regular meetings with the acting director of human resources during January and February. Due to the sensitive and urgent nature of the investigation, it was not considered necessary to formalise the agreement which was given.

(3) The acting director general of human resources, as the contract manager, did not formally request a waiving of the requirement. Procedures are being reviewed to ensure all future decisions are in writing.

JOB VACANCIES

234. Mrs HODSON-THOMAS to the Minister for Employment and Training:

Further to the information the minister provided yesterday regarding job vacancies, can the minister inform the House how this has translated into employment and unemployment figures?

Mr KIERATH replied:

Yesterday I provided to the House information from the *Australian Bulletin of Labour*. I remind members that Western Australia is the place to be for job prospects. Job applicants have a better chance of obtaining work here than in any other State. I have also managed to obtain a graph on the number of people employed in Western Australia from the early 1990s through to 1998. There was a slight kick-in in 1992; however, most of the growth has occurred since 1993. One can see from that graph that Western Australia is creaming the rest of the country in job prospects. In fact, the *Australian Bulletin of Labour* said that it was no accident that the improvement in Western Australia's fortunes coincided with people's expectations and realisations of the then coalition Government. It went on to say that WA is one of two star performers. In today's media, WA was listed again by, I think, Drake International which predicted 11 000 jobs in factories, labouring, customer service and trade will be created by the beginning of 1999. That report went on to link the increase in employment to an increase in the number of international tourists. In fact, the commentator said that we could thank our tourist promotion, including the Elle campaign, for having a major hand in that.

I remind members that last month Western Australia recorded the highest number of people in employment in the history of this State, some 892 700. Although our unemployment rate increased slightly by 0.2 of 1 per cent, that was attributed to the fact that more people entered the job market because of better chances of obtaining jobs. In the previous month 7 900

additional jobs were created in this State.

Mr Gallop: There should have been one more big job created. You should have been sacked two days ago!

Mr KIERATH: Youth unemployment dropped three percentage points to 17.2 per cent and, again, we are doing better than every other State in the country.

Mr Ripper interjected.

Mr KIERATH: Look at the Opposition. All they can do is knock it. This is good news for all Western Australians; and what do we see from the Australian Labor Party? Lousy looks, criticism and knocks; we do not see anything positive at all for the people of Western Australia. The Opposition must really lift its game if it ever hopes to govern this State.

Point of Order

Mrs ROBERTS: I ask the minister to table the graph to which he referred.

The SPEAKER: That is not a point of order. Does the minister want to table that paper?

Mr KIERATH: Yes, I am happy to table it.

[See paper No 257.]

Questions without Notice Resumed

FREMANTLE HOSPITAL, MRS ANNA ZALMESTRA'S SURGERY

235. Mr McGINTY to the Minister for Health:

(1) Why has Mrs Anna Zalmestra, whose condition is classified as urgent by Fremantle Hospital and who has been waiting for surgery since June of this year for a potentially life threatening abdominal aortic aneurism, not been operated on or even given a date for her surgery?

(2) What action will the minister take to guarantee urgent surgery for Mrs Zalmestra after Fremantle Hospital has twice cancelled her surgery on 8 September and 6 October?

(3) Will the minister confirm that, in identical circumstances, two patients, including Mr William Harris, died while on the waiting list after cancellation of their surgery for abdominal aortic aneurism at Fremantle Hospital earlier this year?

Mr DAY replied:

(1)-(3) I thank the member for some notice of this question. These issues are essentially clinical decisions which are made by clinical staff. I am advised by Fremantle Hospital that Mrs Zalmestra was seen at Fremantle Hospital for pre-admission on 1 September and that the necessary investigations were undertaken to prepare her for surgery. The planned admission on 8 September was cancelled and rescheduled for 6 October as a result of more urgent cases which required surgical intervention. The planned admission on 6 October was also cancelled because of more urgent cases also requiring surgical intervention. Fremantle Hospital advises that this includes patients with newly diagnosed rectal carcinoma; current colon cancer; symptomatic carotid artery disease requiring surgery to prevent further strokes; bypass surgery for severe complicated peripheral vascular disease; vascular access operations for patients with renal failure; and other patients with aneurisms.

Fremantle Hospital has not yet confirmed another planned admission date but it is expected that Mrs Zalmestra will be contacted early next week by the surgical registrar to arrange another date. In response to question 3, I am advised that on two occasions the doctors made a clinical decision that other patients needed to be given priority for surgery. As I said, I am advised that the decision to defer surgery is based on clinical evidence.

The good news is that the Government, through the Metropolitan Health Services Board, has established a central wait list bureau for the purpose of ensuring that patients who are on long waiting lists at one hospital, where possible with their consent and with the involvement of the medical profession, are given the opportunity to have their surgery performed at another hospital. Significant advances are being made in that area. Recently I have mentioned some examples in this Chamber. One which comes to mind is the paediatric surgery which was performed at Kalgoorlie Hospital and which removed 11 patients from the Fremantle Hospital waiting list who had been waiting for some time.

The other good news is that all of the additional $125m which has been allocated to Western Australia by the Commonwealth Government is being directed into increasing the amount of elective surgery which is being performed. For example, substantially more joint replacements are being performed, particularly at Sir Charles

Gairdner Hospital. I am pleased to say that Fremantle and Royal Perth Hospitals also will be increasing their throughput in the very near future as a result of the number of changes they have implemented. Therefore, we are making progress in this area and I am hopeful that Mrs Zalmestra's surgery will be completed in the very near future.

ABORIGINES IN THE PUBLIC SERVICE

236. Mr OSBORNE to the Minister for Public Sector Management:

Can the Minister inform the House of the latest efforts by the State Government to increase the number of Aboriginal people working in the public sector?

Mr COURT replied:

The Government is embarking on a new campaign to encourage more Aboriginal people to seek employment in the Western Australian Public Service. We will be offering to Aboriginal people a range of traineeships and cadetships across the public sector. We have an agreement between the Ministry of the Premier and Cabinet and the Commonwealth Department of Employment, Education, Training and Youth Affairs to provide 75 traineeships and 24 cadetships over a three-year period. Family and Children's Services will also provide employment for 20 Aboriginal field officers over the same period.

The Commonwealth Government has given the State $1.65m for this project. The Government envisages that most of the trainees will participate in the one year public sector administration traineeship. The cadetships will be available to university students commencing or continuing studies. The period of the cadetships will be the time required by each cadet to complete his or her full time studies, up to a maximum of four years. Cadets will be supported by a public sector agency while they are studying and they will gain practical experience by working in the sponsoring agency during vacation periods. Once they have completed their cadetships, students will be guaranteed 12 months' employment and they may be offered permanent employment by the sponsoring agency. The advertisements for this program will go out in the next few days.

INDUSTRY TRAINING COUNCILS, FUNDING

237. Mr KOBELKE to the Minister for Employment and Training:

The Minister will be aware that three industry training councils have lost large and crucial parts of their funding to the Chamber of Commerce and Industry of Western Australia under the new industry advisory arrangements. Given that this funding allocation has been announced without being ratified by the State Training Board, there are questions about the propriety of the decision-making process, and there is a perception that this decision opens up blatant conflicts of interest, will the minister put a stop to the issuing of these contracts and establish a proper, open and unbiased process which conforms with the standards established by the State Supply Commission for the issuing of contracts?

Mr KIERATH replied:

I was fascinated by that question. Members should stop and think about what the Opposition is asking me to do. The State Training Board has allocated some funding to industry training councils -

Mr Kobelke: No, your department. They have to go through the department.

Mr KIERATH: No. The rest of the money is then put out to competitive tender. It has been handled by the State Training Board, an independent body which oversees state training in Western Australia. The member for Nollamara is asking me, as minister, to interfere and overturn that decision-making process because it suits him and his friends this time. My answer to that is no I will not.

SOUTHERN SUBURBS RAIL EXTENSION

238. Mrs HOLMES to the minister representing the Minister for Transport:

Will the minister advise when a decision is expected about the provision of a rail facility to service the southern suburbs from Kenwick through to Canning Vale and Jandakot?

Mr OMODEI replied:

The Minister for Transport has provided the following response: A master plan is currently in preparation for the railway extension to Rockingham and Mandurah. When the Government has reviewed that master plan in early 1999, it will consider the staging and timing of the extension to Thompson Lake.

HEALTHCARE FOODS, PRIVATISATION

239. Mr McGINTY to the Minister for Health:

Some notice of this question has been given.

(1) Will the minister confirm that the Government has begun the process of privatising yet another government hospital service, Healthcare Foods at Sir Charles Gairdner Hospital, by announcing that expressions of interest to privatise this successful service will be called in the next few weeks placing the jobs of 20 to 30 staff under a cloud?

(2) When will the Government learn what its colleague, New South Wales Liberal leader Peter Collins, has obviously learnt; that the public is emphatically opposed to the privatisation of health care? Last week he said that although the last New South Wales coalition Government introduced private sector building and management of public hospitals, that would not occur again in the foreseeable future and he did not think Governments should walk away from areas such health.

Mr DAY replied:

I thank the member for some notice of this question.

I am interested to see that the Opposition in Western Australia, the Labor Party, is taking advice from the Liberal leader in New South Wales. I suggest the Leader of the Opposition and other people -

Dr Gallop: He is actually taking advice from us.

Several members interjected.

Dr Gallop: He has obviously been reading my speeches and has picked up a few words of wisdom.

The SPEAKER: Order!

Mr DAY: I suggest the Leader of the Opposition read all of the Liberal leader's address. He would see that, among other things, Peter Collins said government has received a lot of bad press over the past decade. Part of the explanation for that lies in the massive over-reach of government around the world and part is the dramatic collapse of central planning in the Soviet Union and Eastern Europe. In Australia, it was partly a reaction to the excesses of the 1980s' State Labor Governments. Does the Leader of the Opposition agree with that? Mr Collins went on to say that government must work in partnership with private organisations to manage, develop and enrich public space and public services. That may explain why the previous Federal Labor Government decided to sell Hollywood Hospital - the former Hollywood veterans hospital in Western Australia - to the private sector. That was agreed to by the previous Labor Government in this State of which the member for Fremantle and the Leader of the Opposition were members.

Mrs Roberts: In the 1980s in New South Wales the Liberals were in government.

Mr DAY: I said Labor Governments. I read the speech and Mr Collins said Labor Governments. I suggest the Opposition think about the history of Hollywood Hospital in Western Australia and its role in selling it to the private sector.

I am advised that the Metropolitan Health Services Board has resolved to call for expressions of interest for the sale of Healthcare Foods as a going concern. When those expressions of interest or detailed proposals are received, they will be assessed against the cost of the continued provision of the service under the existing arrangements.

Mr McGinty interjected.

Mr DAY: The member for Fremantle should realise that the Government has a responsibility to the taxpayers to ensure that their money is spent in the most effective way and to ensure that the maximum amount of the Health budget is spent on patient care. The Government's main priority is to ensure that the maximum amount of treatment is provided in a quality manner. Where it is clearly demonstrated that the private sector can provide a clear benefit, it is appropriate that it plays a role in providing those services. A clear benefit should be demonstrated and the people of Western Australia must be assured that the services will continue to be provided in a high quality process. That is exactly the process which will be followed.
