WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 18 November 1998

Legislative Assembly

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

JUSTINIAN STREET, PALMYRA

Petition

Mr Carpenter presented the following petition bearing the signatures of 160 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned do request that in the interest of public safety Justinian Street, Palmyra, be terminated at the McGregor Street intersection.
>
> And your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 77.]

CARAVAN PARKS AND CAMPING GROUNDS LEGISLATION

Petition

Mr Carpenter presented the following petition bearing the signatures of four persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned, call upon the State Government to amend certain laws which are seen as unfair, restrictive and discriminatory towards us, the Australian public.
>
> We therefore ask that the following legislation be amended.
>
> 1. The Caravan Park 50 km protection zone be returned to its former 16 kms.
> 2. The 3 night Camping Law be amended to 28 nights on rate payers own property allowing for holiday visits by family or friends without having to seek special written permission from authorities.
> 3. That country road Park/Rest Areas limit of 4 hours be increased to 12 hours allowing long distance tourists, travellers and truck drivers to vacate roads during the hours of darkness if they so choose.
> 4. That en-route country Rest Stops of up to 12 hours be not defined as camping.
>
> 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 78.]

SELECT COMMITTEE ON CRIME PREVENTION

Leave to Sit when House is Sitting

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

> That leave be given for the Select Committee on Crime Prevention to meet when the House is sitting on Wednesday, 18 November, Tuesday, 24 November and Wednesday, 25 November.

GOVERNMENT RAILWAYS (ACCESS) BILL

Second Reading

Resumed from 11 November.

MS MacTIERNAN (Armadale) [11.06 am]: Yesterday, when I raised with the Minister for Local Government the prospect of a lengthy debate on the Bill because a number of aspects needed more thorough examination, the minister said he hoped that the Opposition would not talk about the sale of Westrail because in his view that had nothing whatever to do with the Bill. That demonstrates a lack of imagination on the part of the minister. Although it is true that a Bill is required, regardless

of whether Westrail is sold, the nature of the Bill is affected by the Government's decision - or, if one believes Dean from Narembeen, the non-decision - to sell Westrail.

The Bill is designed to provide third party access to a number of freight lines as set out in the proposed code. Fundamentally, the Bill came about as a result of an application by Specialized Container Transport, an above-line freight line operator which wanted the opportunity to run containers on Westrail's tracks. It was initially denied access by Westrail and it took the matter to the National Competition Council. The council viewed Westrail's arguments as to why it should continue in monopoly, and determined that those arguments were not substantial. The council made a recommendation to the Premier that third party access be granted in line with the national competition principles which the Government had signed. At that point SCT decided to appeal to the Australian Competition and Consumer Commission. However, before that appeal could be heard the Government came to an agreement with SCT to allow access, and made an undertaking that it would develop the Bill. I find it a little amusing to read some of the comments of the Minister for Transport, Hon Murray Criddle, who perhaps was not aware of this history when he talked about the initiative taken by the Government to introduce this legislation. Perhaps it would be a little cruel to say that the Government was dragged kicking and screaming to this, but it was along those lines. I am not arguing that the Government is against competition, and it had to be forced into this. However, for the edification of the Minister for Local Government, I will explain the Opposition's reference to the sale of Westrail. That is why the sale of Westrail is very germane to the format of the Bill before us and to the genesis of the Bill through the processes taken by Specialized Containers.

There is no doubt in my mind that the Government is keen to delay as much as possible the introduction of third-party competition on the rail network because it has made a decision to sell the network. It knows, and the Labor Party gathers from information obtained, that Wisconsin - the frontrunner in the operation - wants a vertically integrated operation and it would prefer to be operating as it is in New Zealand and Tasmania; that is, as a monopoly. Obviously it is a far more attractive proposition for a company to operate as a monopoly, at least on the rail, and to have road operators as its competition rather than other rail operators.

Of course, from the Government's point of view the advantage is that the more work it has tied up with Westrail and the less powerful its competitors, the greater the price it is likely to achieve for the sale of Westrail. Let us make no mistake, we will need a very healthy return from the sale of Westrail if we are to get close to paying off its debt, which has ballooned out in the past five years.

Mr Thomas: Would the sale of Westrail involve legislation?

Ms MacTIERNAN: The Government has been very cagey about this. As far as we can make sense of the responses we have received to date from the Minister for Transport they seem to indicate that it may or may not require legislation, depending on which way the arrangements are structured. I gather that if the sale, for example of the basic rail infrastructure, were done by way of long-term 99-year or 50-year lease, legislative intervention would not be necessary.

Mr Thomas: It would be good to know the Government's intention.

Ms MacTIERNAN: It would be. The member for Cockburn's comments are very germane. The Government attempted in the Legislative Council to introduce a raft of amendments that would delete the words "Commissioner for Railways" and replace them with "the rail operator". That was clearly done in contemplation of the sale and designed to avoid having to bring the Government Railways (Access) Bill back to Parliament in the event of a sale. This action followed a paper that I put out highlighting the problem for the Government. The Government had the Bill drafted without contemplation of the sale, and it had subsequently made a decision to sell Westrail. Therefore, the Bill would cease to apply should Westrail be sold. Unless the Government is proposing to provide the purchaser with a monopoly, it will have to come back to the Parliament with an amendment to this Bill. The Labor Party and the minor parties were not prepared to sign off on the Government's proposed amendments at this stage because we did not support the proposal to sell the rail infrastructure, and it was not our intention to make that any easier for the Government.

We now have a Bill which is designed to give third-party access and which will cease to apply as soon as Westrail is sold to a private operator. That must be of concern to the Government just as it is to the Labor Party. At least the Government will be required to bring this Bill back into the Parliament unless it intends to give the purchaser of Westrail a monopoly.

I will also comment on the inappropriateness of the code that has been proposed under this legislation. The code itself does not form part of this legislation; it is referred to in the legislation, but it will be incorporated by way of subsidiary legislation. The Labor Party's concern is that the Government's proposed code is inadequate when one considers the structure of the rail system which we have in this State and which the Government has determined we will have after the sale; that is, a vertically integrated operation. Westrail is the owner and manager of the rail tracks and all the rail infrastructure and an above-line operator. The system being proposed means that an operator coming on line and wanting to compete with Westrail will be required under the proposed code to front up to its competition and say, "Can you give me access to the rail and tell me the rate at which I can have it?"

What is not being proposed is a fixed and gazetted rate. When I put this argument to the ministerial advisers, they came back with a nonsense response. The Labor Party pointed out that what we have had in this State and what the Government has indicated we will have after privatisation is a vertically-integrated operation. The Government will be asking private operators to come cap in hand to plea for access and a commercial price. Under those circumstances, given that we have this vertically integrated operation, we need a fixed formula for rates that can be objectively assessed. The nonsense argument from the minister's advisers was that there is a different formula for costing the rate for moving Weeties and iron ore. I do not know who they are used to giving advice to, but that is an insult to the intelligence of anyone with an IQ higher than that of a cabbage. It is clear that we would be talking about a complex formula to determine the rates, and it should be a fixed formula for different products as required. It is obvious that Westrail will have a formula to price its own products, so it is possible to do this. The proposed code does not include a fixed objectively assessable formula but rather a band. The band being proposed is anywhere between the marginal cost and the average cost. When dealing with its competition, Westrail has a choice of charging the average cost of running the freight - that is, full recovery - or a marginal rate. That gives Westrail a great capacity to put obstacles in the way of its competitors. We cannot have a genuine third-party access regime when track availability and price are controlled by a vertically-integrated operation. This is even more the case when that vertically integrated operation is a private operation. We are asking these companies to put aside their desire to make a profit and to do the fair and reasonable thing by their competitors. That is a nonsense.

We need to do one of two things if we want to stick with this vertically-integrated model: Have a fixed-price formula that can be objectively determined; or have a separate rail track authority that deals solely with access and that has a motivation to increase the operation of third parties on the rail network. It is a complete nonsense to propose to hand over to a single private operator not only the above-line operations but also the below-line operations. As far as I can determine, the Australian Rail Track Corporation does have the sort of formula to which I refer; namely, a flag-fall formula. Therefore, what I propose is eminently doable and fair.

Our next concern is the question of the regulator. The Government may say, "If people are not happy, they can go to the regulator, and the regulator will assist." However, the legislation provides that the appointee shall be the Director General of the Department of Transport. The Bill purports to say that in the discharge of this function, that person will be free of ministerial direction. However, we know that he will be on a five-year contract, and that with regard to all his other duties, he will be subject to the direction of the minister. Therefore, serious doubts are raised about whether this position will be truly independent. This matter has been looked at in a preliminary way by the National Competition Council.

Mr Barnett: It is a general principle across a number of areas - power, water, and so on - and it is a grey area. It is inevitable that policy-type issues will arise, in which case it will be appropriate that the minister and the regulator discuss those issues. The area where the regulator will need to be independent is when he is playing a role in, for example, adjudicating a dispute, or granting the conditions of access. My concern about having a so-called independent regulator is not the principle, but the problem that too many government policy issues will end up with the regulator. The Australian Competition and Consumer Commission is an example of that, where the Federal Parliament and the federal ministry do not have any control or influence over competition policy. I do not believe that is appropriate.

Ms MacTIERNAN: One can always unravel national competition policy, even if one is purporting to sign up to it. In the circumstances that we are talking about here, where in the short-term at least we have a government-owned and operated rail system that the Government is trying to sell off, it is not unreasonable for the Government - and all the evidence suggests that this is what the Government is doing - to do whatever it can to discourage competition in order to beef up the price. Under those circumstances, we do not want a regulator who is too close to government. If the Government believes that we should have a monopoly on the rail system, that is a separate argument. We are saying that the Government is perpetrating a fraud on the people of this State by pretending that we will have competition but then nobbling the person who is supposed to be the guarantor.

Mr Barnett: That is unfair. There is a difference between policy-related regulation issues and the strict setting of the rules of interpreting a code and applying it in almost a commercial regulation role, and that is what government and the minister should stay out of.

Ms MacTIERNAN: The policy aspects should be questions for government. They should be enshrined in legislation or in policy that is open and transparent. We do not want to see the Minister for Transport's office ringing up and leaning on the operators of Main Roads and of the Department of Transport by saying, "The old man wants this, and this is what you will do." I do not have any problem with a Government that is prepared to say, "We believe as a matter of policy that, in this instance, we want to preserve Westrail's monopoly." However, I do have a problem with the behind-the-scenes power play which, particularly in the Transport portfolio, has been the order of the day. I know that the way in which one might set up a regulator is a vexed issue, and in committee we will explore that matter in more depth. I have prepared some amendments on this subject, although I guess that for technical reasons I may not be able to move them in this place.

We have done a survey of the regulators that have been chosen in New South Wales, Queensland and Victoria. Those three States, which are all part of the standard gauge network, have independent regulators. South Australia is not relevant,

because it has handed over its rail network to the national body. I would be interested in the Minister for Resources Development's comments on this matter. New South Wales has the Independent Pricing and Regulatory Tribunal. Queensland has the Queensland Competition Authority. Victoria has the Office of the Regulator General. Each of those States has set up its own body to do this job. This State has set up an Office of Gas Access Regulation, so we have gone down the path of an independent regulator with regard to gas.

Mr Barnett: As have all the other States.

Ms MacTIERNAN: Yes, but in this instance, where other States have gone down the path of establishing an independent regulator, Western Australia has not. I do not believe the reason is just some sort of naivety or desire by the Minister for Transport to maintain control. I believe the reason is that the Government has a bigger agenda. It is unlikely from what we have seen that the National Competition Council will sign off on this legislation and the code when the regulator will be a public servant. There is a great deal of concern and scepticism about the fact that the Director General of the Department of Transport will be nominated as the regulator, and that is said to be the major impediment to certification of the Western Australian scheme.

Mr Thomas: We thought the gas regulator was a mickey mouse operation!

Ms MacTIERNAN: That is right. We have here a person who is a public servant and who in every other aspect of his job will be subject to ministerial direction. It is not just I who am saying this but also the National Competition Council. Members must work out why this has been done. Is there some naivety on the part of the Government, does it have some other information that the National Competition Council will change its view, or does the Government not care if this is not signed off by the NCC? Referring to the earlier comments that the Government was dragged into producing this legislation by the action taken by Specialized Container Transport, and bearing in mind the economic advantage to this Government of this legislation not taking effect - that is, it will have the capacity to reduce the involvement of third parties on the rail link and hand more contracts to Wisconsin or whatever international operation it will be sold to - it starts to fall into place. There are two possible explanations: The first is complete incompetence and failure to recognise how seriously the National Competition Council will treat this lack of independence of the regulator when signing off on the code. If that is not the explanation, the other possible explanation is that this is a deliberate attempt by the Government to go through the motions of putting up a legislative package, although at the end of the day it wants the legislation to be knocked on the head by the NCC. The Government knows that it need delay this for only six to nine months, by which time it will have sold Westrail. In the meantime, by having kept the competition out of the game, the Government will have enhanced the price it will receive from the sale. It is a sorry piece of legislation.

The Opposition supports the principle of the Bill because it supports the idea of competition on the rail network. The Opposition believes that rail must be in vibrant competition with road transport. Over the past five years many lines have closed down and Westrail has systematically divested itself of much of the freight it should be carrying. In recent years Westrail has chosen to focus on the big resource bulk cargo. It has basically abandoned small cargo and livestock transport. It no longer has a role in the transport of any perishable goods because it abandoned freezer and chilling facilities. Westrail has systematically abandoned large aspects of rail transport. Quite clearly, this State needs either a different approach from Westrail, indicating that it wants to run a complex rail operation, or competition from third parties who may be prepared to do that. It may be that competition from third parties is the way to go.

The underlying objective of the Opposition is to get much more of the freight movement in this State off roads and onto rail. A number of positive benefits flow from that. In the long run it will be economically advantageous because the cost of maintaining roads that have been chewed up by heavy haulage is horrendous. The volume of heavy haulage now using narrow country roads also has a negative impact on the amenity and safety of people living in rural communities. The Minister for Local Government will be aware of the controversy in places such as Bridgetown over heavy-haulage vehicles using the roads, and the insanity of continuing to take major freight off rail and onto road. The member for Roleystone's select committee inquiring into heavy haulage commented on the environmental advantages of rail; that is, rail transport is between two and four times more fuel efficient than road transport. That may change over time - not under this Government with its diesel fetish - because technology is developing, even within Western Australia, to provide much more efficient use of gas motors in vehicles. All members know about the hydrogen fuel cells. Perhaps the differentials will change over time, but certainly getting the material off the roads and onto dedicated heavy-haulage routes will have great benefits for local communities. I referred a moment ago to the problem at Bridgetown; a similar problem is occurring in Jarrahdale as the volume of heavy-haulage traffic coming into the city is building up. Much of that freight was carried by rail in the past. It is now causing great dissension in the Shire of Serpentine-Jarrahdale because the Government wants to build a giant link road to take the heavy-haulage traffic through the centre of Jarrahdale.

In passing, I also comment generally on the proposed sale of Westrail. I am very surprised that the Government is choosing to take this route. It must be said that there is enormous opposition, not just within the Western Australian Farmers Federation, an organisation which has been systematically maligned by National Party members in this place, but also by the major resource operators who use the standard gauge to move their products. I am surprised that the Minister for

Resources Development is not more mindful of this. I advise the Minister for Local Government that the Opposition is receiving a great deal of correspondence from country shires who are concerned about, and do not support, the sale of Westrail. All these aspects of the conservative constituency are being systematically ignored in the Government's push to privatise. At the end of the day one must ask who will be the beneficiary of this. Does the Government feel it will then have a very large benefactor? It is hard to make sense of such a decision. I will not say more about the sale, other than that it is relevant to this Bill, because this Bill will set up a regulation regime that allows a broad band of pricing to be allocated to any third party that wants to gain access. Where a rail track manager is also a competitor of the third parties, there is a fundamental conflict of interest in an operation. It is not a conflict of interest that will be properly solved by the appointment of a regulator, particularly one who is a public servant.

Private companies have told the Opposition that to get to first base, they must disclose their potential clients, the routes over which they want to travel, and the nature of the product they want to move. They cannot start to negotiate without delivering all that information to the competitor. It is a nonsense. It simply will not work. This becomes a more cogent problem when that private operator - the rail track owner, the above-line operator - is a private company. It will not even be subject to ministerial direction or to the political pressure that might result in some amelioration of those circumstances. The potential for the sale of the rail to a private operator is very germane to the legislation, given the way in which the minister has determined to establish the code.

I reiterate: We must look at the regime of posted rates to get some impartial rate fixing. We are concerned about the independence of the regulator and that the minister may be well aware that this model of a regulator will not be accepted by the National Competition Council, and that may be the agenda. We will debate some of these aspects more fully as we go on. We support the principle of the Bill because we want to see a vibrant, healthy rail system, one that can compete with the road network and get more of the freight that should be on rail off the roads and out of the rural and outer suburban communities where it is currently causing havoc.

MR THOMAS (Cockburn) [11.44 am]: I am pleased to support my colleague, the member for Armadale. As she said, the Opposition supports the legislation; however, it is concerned about some aspects of it. We believe it has not been well thought through and will not provide access to the Government rail system in the best way. I will draw a number of those aspects to the attention of House. The first is whether there will be a government rail system. There seems to be an underlying intention by Government to privatise Westrail. I am concerned that not only will that happen, but also that the Government will seek to do it by evading the Legislature, in some underhand, roundabout way by which the Parliament will not have the opportunity to debate the issue.

I am advised that when this Bill was considered by the Legislative Council, the phrase in the legislation referred to the rail operator. That generic phrase seemed to envisage that someone other than the Western Australian Government Railways Commission - that is the proper name for Westrail under the legislation - would be the proprietor of the rail system. The Government must understand that the people of Western Australia value the railway system. The railway system has served Western Australia very well and the people of Western Australia are very fond of it. In 1983 when the Labor Government went to the election, which it won, its polling showed that the closure of the Perth to Fremantle railway line by the Government, under the premiership of Court the elder, was a significant issue in the Wanneroo and Joondalup electorates. I do not imagine that in the normal course of events the people there would use that rail service, but they resented the fact that it had been closed down. The railways were for many years, and probably most of this century, the biggest employer in the State and provided the infrastructure that has been used by many people in Western Australia for a long time. They are valued and those values are reflected in the fact that the legislation in Western Australia provides that we cannot close a railway without legislation to do so. At some stage it was put into legislation that Governments could not close down railways without legislation -

Ms MacTiernan: This is why the Government is now using the term that it is not using railway lines. It is just not using them.

Mr THOMAS: The railway lines are disused. The Government is just letting the railway lines rust.

Mr Omodei: What freight do you intend to force back to rail? You must make that very clear. I am sure the horticultural interests will be happy about that.

Mr THOMAS: I will come to that. I see a great future for rail. One basic aspect of this issue is that there must be publicly-owned infrastructure for the rail system. I put this challenge to members opposite, and I am glad that the Leader of the House and the Minister for Energy are in the Chamber: If they want to privatise Westrail, to close the railway system or sell it, let them do it openly and put it to the people. Let us have an election based on the fact that the Government wants to sell the rail system. I suspect they are not game to do that because they know the people of Western Australia fondly regard the railways and Westrail. The people would punish very severely any government that sought to privatise it. If that is the Government's intention, those opposite should be up-front and honest about it and tell the people of their intention to privatise Westrail.

The Minister for Energy has told us of his intention to privatise AlintaGas. It might also possibly be his intention to privatise Western Power. If they are his intentions, they are very substantial moves. The Government did not go to the last election suggesting it would privatise Westrail, AlintaGas and Western Power. If it undertakes any one of those actions without a mandate from the people, I suggest it is being dishonest and is evading the democratic processes because it should not consider such major actions without a mandate from the people. These assets belong to the people and should be sold only with the agreement of the people. If that sale happens by the Government's evading the Legislature by some means, not only is it being dishonest with the electorate, but also it is being contemptuous of the Parliament.

Mr Barnett: Any privatisation, including that of Westrail, will require legislation.

Ms MacTiernan: That is not what the Minister for Transport says.

Mr THOMAS: If that is an undertaking, I am comforted to hear it. Does that include 99-year leases?

Mr Barnett: I understand it would require legislation. A whole lot of consequential amendments are required.

Ms MacTiernan: You had better have a chat with the Minister for Transport.

Mr THOMAS: Again, I am very pleased to hear that from the minister. As my colleague the member for Armadale says, perhaps the minister should clarify the position with the minister who has the responsibility for Transport.

Mr Barnett: If the Government decided to privatise AlintaGas, and I make no secret of the fact that it is under consideration, that would require legislation. I think in many ways Westrail is a far more complex asset.

Mr THOMAS: That is right. There are all those railways Acts. I am very pleased to hear that, Mr Speaker. As the Speaker, the person responsible for safeguarding the integrity of the Parliament and the position of the Parliament in this State, I am sure that you, too, will be pleased to hear that if the Government intends to privatise any of those organisations - in particular, AlintaGas - there will be legislation for that. I challenge the Government to bring forward such legislation and to see what the Legislative Council has to say about that. We on this side of the House will use all powers that we have, and in the Legislative Council those powers are not unsubstantial, to veto it.

Mr Barnett: Do you see the Legislative Council as the voice of the people?

Mr THOMAS: I see the Legislative Council as being far from the voice of the people, in the same way as I see the Legislative Assembly being far from the voice of the people when it is elected on such a gerrymandered basis.

Mr House: The member for Cockburn got elected. There must be something wrong with the system.

Mr THOMAS: Twice as many people voted for me as voted for the minister; therefore I consider I have twice the mandate, and if these things go to a vote, I should be able to hold up two hands while the minister is able to hold up only one. I have twice the mandate of the Minister for Local Government, who is the minister representing the Minister for Transport.

Mr Omodei: Is the member for Cockburn sure about that?

Mr THOMAS: Yes.

Mr House: I see the member for Cockburn is under threat from the Greens.

Mr THOMAS: That is right. That is why I am trying to encourage them to stay in the Legislative Council.

Mr Omodei: No wonder the member is singing his own praises.

Mr THOMAS: I am trying to encourage Hon Jim Scott to stay where he is.

Mr House: We want him to stand against you.

Mr Barnett: However, we do not know whom we want to win. That is the hard part to work out. We know whom we want to lose.

Mr THOMAS: Irrespective of whom the minister wants to win, it will be a matter in which he has very little say; therefore I will not spend too much time worrying about it. However, it must be said that the Legislative Council is elected by proportional representation. If one puts aside the question of the electoral malapportionment, there are people represented in there who have a point of view. They are members of the small parties, such as the Democrats, who receive only twice as many votes as the National Party. Therefore, they are only a small group. However, it must be said that the electoral system should make some provision for them.

The SPEAKER: Order! While we were dealing with another matter, the debate seems to have shifted away from the Bill to electoral matters. Perhaps the member can return to the substance of the Bill.

Mr THOMAS: Mr Speaker, it is my intention to do so. I am very pleased to have received the assurances from the minister.

As you suggest, Mr Speaker, I will return to the substance and purpose of the Bill; that is, the notion of providing third-party access to the State's rail system. That is something of which I am enthusiastically in favour. Like my colleague, the member for Armadale, I wish to see a greater proportion of our traffic - freight, for the most part, of course, but, conceptually, passenger traffic as well - carried on rail rather than road. As far as possible, it is a much better system to keep the freight off the roads and on the rail, leaving the roads to the people. It is not always possible to do that; indeed, most often it is probably not possible to do that, because a road has certain advantages in the sense that goods can be picked up from a source and delivered to a source without the necessity for transhipment.

Ms MacTiernan: Much of the traffic now is dual traffic.

Mr THOMAS: That is right. Various possibilities exist to enable a higher proportion of our traffic to be carried on the rail. I have had discussions with some of my colleagues who share my fondness for Westrail. They are concerned with this situation, because competition of that nature could threaten Westrail. However, in its capacity as a rail service provider rather than a rail owner, the threat to Westrail comes not from other rail operators; it comes from roads. To the extent that people can be innovative, that people can find market niches, and that people have the opportunity to provide services by private rail operators, we should wish them well and provide the legislative basis for them to do that.

We need to turn to the legislative basis to do that, which is the Government Railways (Access) Bill. We need to compare this Bill with the Gas Pipelines Access (Western Australia) Bill which passed through this House earlier this year, because they have something in common. That Bill currently is receiving the attention of the Legislative Council, and it may well be back here in a week or two with some amendments which the Government will have to contemplate. It will be interesting to see what the Legislative Council does with that Bill. However, what that Bill has in common with this Bill is that it provides third-party access to infrastructure. That is a principle which has been increasingly applied throughout Australia. In the electricity industry, for example, it is thought that private generators of electricity should have access to the transmission system in order to sell their product to customers; in the gas industry, producers of gas should have access to gas pipelines in order to convey their product to customers that they are able to secure; and we have here the notion that people who wish to operate a rail system should have access to the publicly owned rail system in order to do that.

However, a complex problem exists. If members cast their minds back to the time when we were dealing with the Gas Pipelines Access (Western Australia) Bill, they will recall we had a complex piece of legislation because it contained the code which gives the rules by which people are able to obtain that access. Members will understand that when the operators of that infrastructure are in competition with the shipper, as is often the case, they could use their position as the owners of the infrastructure to keep competition out of the system. When the State Energy Commission of Western Australia operated the Dampier to Bunbury natural gas pipeline, it had a clear commercial interest in keeping competitors out of the gas market. As members will recall, SECWA had a huge gas surplus that it had to try to get rid of, and it was in its commercial interests, and possibly in the State's interests, to keep competing, cheaper gas out of the market. It used gas quality specifications to prevent competing gas producers getting into the gas market, notwithstanding the fact that, notionally at least, the Petroleum Pipelines Act allowed for third-party access to that piece of infrastructure.

Mr Barnett: I do not think that claim is fair. There was an index, the name of which I cannot recall. There has been an argument that the specifications for gas have been narrow. I agree with that. They have been widened. I do not think it is fair to say that that was a contrivance to limit competition. I have looked at that very carefully since I have been minister.

Mr THOMAS: It predates the member's time as minister.

Mr Barnett: I know it does. I am not sensitive about it. However, I do not think it is fair to say that. I know some people in industry say that. They also invariably have resources which are of an inferior quality.

Mr THOMAS: The minister may well be right. I am just using that as an example of what can occur when one has an infrastructure operator in that position. The allegation has certainly been made in the industry, and it has been widely said, that that is what SECWA did. Indeed, at present Western Power is facing litigation in the Federal Court of Australia under trade practices law that it has used its position as a transmission system operator to keep competing electricity generators out of the market. Normandy Poseidon is suing Western Power. The company has set out in great detail what it believes were steps taken by Western Power to prevent it gaining fair access to potential electricity markets. I have a number of interesting questions on the Notice Paper for the minister. I am hoping I will receive answers from Western Power about some of the matters that have been alleged in that case, because I am interested to know whether Western Power has used its position to prevent third-party access to the transmission system, because under the Electricity Corporation Act, it has an obligation to make that infrastructure available to the public. I hope the minister will be quicker in providing me with an answer to those questions than he has often been in these matters in the past. They are interesting questions, and I am looking forward to seeing what answers Western Power provides to him and thence he provides to the Parliament on those matters.

To return to the matter with which I was dealing, under these systems one needs to have a detailed, complex code which provides clear rights to potential users of that infrastructure and imposes clear obligations on the operators of that

infrastructure. We need those provisions to make sure that third-party rights prevail. The Gas Pipeline Access (Western Australia) Bill was a very complex Bill that contained a code that set out those rights. For the most part the code was drawn up under the auspices of the Council of Australian Governments. It had been subject to an enormous amount of scrutiny and innumerable seminars, some of which I participated in, through which all of the issues were thrashed out. Most people are confident that it provides a good workable code and that we will have a competitive gas market in this State.

When I heard that the Government Railways (Access) Bill was coming to the Legislative Assembly, this being a subject in which I have had an interest for some years, I was eager to receive the Bill and see what the code was. What did I find? I found a provision which says that the minister may make a code. There is no code in the Bill. Instead of having a code, as we had with gas and I presume we will have with electricity in time to come, setting out clearly in the Bill the rights of citizens who may wish to operate in the rail transport business in this State and the obligations of the rail system owner, who we hope will be Westrail for a long time to come - for as long as I have any say about it in any event - we merely have an obligation on the minister to draw up a code. I realise the minister is only the minister representing the Minister for Transport and that the Minister for Transport, who is presumably providing him with instructions, is fairly new in the job and therefore also probably at a disadvantage, but why on earth is there no code in the Bill?

Ms MacTiernan: They do not want it. That is the point. They are just going through the motions.

Mr THOMAS: I am trying to put on a favourable gloss and be generous in my interpretation of the situation before the House but sadly I too am tempted to come to the same conclusion as my colleague, the member for Armadale. There is no code in the Bill, which is a disadvantage. No doubt the minister will say in response to that question that there is provision in the Bill and that the code will be delegated legislation under the Interpretation Act so that Parliament will have the opportunity to disallow it if it is not happy. However, that is a poor substitute for having the code put before the House. The reason is that if we are unhappy about disallowing it, it is all or nothing. If the code were incorporated in the Bill and we were unhappy about some aspects of it but not others, we could amend it and say that we would take one part but not another part and subject it to the sort of scrutiny that we apply to such legislation. We will not have that opportunity. All we will have, when the Government finally formulates a code, is at best the opportunity to disallow it. That is unsatisfactory and the Government should stand condemned for it.

It gets worse. Not only do we not have a code but also we do not have a regulator. We must have a code in these third-party access regimes, be they gas, electricity, water or rail. As you would know, Mr Deputy Speaker, from activities that you and I engage in, it is not merely what the rules say but who carries them out, who is the policeman and who enforces them. We need an independent regulator to independently regulate and apply the code, hear complaints and applications, and generally enforce the code and deal with disputes that might arise between parties. It is absurd that we do not have a code or a regulator.

What are the widely recognised criteria for the status of regulators? They are that regulators should be in such a situation that they are unlikely to be captured by the industry they are regulating; that is, that they will be detached and independent. They should be independent in the sense of being beyond ministerial direction or the scope of interference by government. Who is the regulator under this Bill? It is the Director General of Transport. Who does the Director General of Transport answer to? He answers to the Minister for Transport. We do not even have an independent regulator. It is absolutely absurd that this should be the case.

There are two options, one of which I canvassed yesterday. I will canvass them both now. We have an independent regulator readily available. We could almost take it off the shelf and insert it in the legislation. Then we would have genuine, independent access to the rail system. As we have proposed in our amendments which are before the other place and which relate to the gas industry, the Australian Competition and Consumer Commission could do it. The ACCC is well established as a regulator. It is regulating the gas industry for most of Australia and the electricity for the national interconnected grid. Those sorts of operations are its core business, to use the jargon, which it is good at. If we wanted a regulator which was independent of the Minister of Transport and able to provide some confidence for people who might wish to get into the rail freight business that they will get a fair hearing and their interests will be fairly evaluated by an unbiased source, we could take the ACCC off the shelf and insert it into the legislation and get the ACCC to do the job. I am sure it would be quite happy to do it.

When we had the Gas Pipeline Access (Western Australia) Bill before the House a couple of months ago, the Minister for Energy, who is unfortunately not in the House, trotted out the traditional Court Government-type parochialism, which is anti-Canberra, anti-eastern States and anti-centralist - the sort of xenophobia that has characterised successive Court State Governments. If we do not want to hand it over to the federalists, so to speak, why not set up a decent office of regulator in this State? That is an alternative for the gas industry, and for the electricity industry when we get decent third-party access legislation for that industry, and it could also do the railways.

Books have been written on the capacity of regulators to be captured by the industry that they regulate. That common theme is often written about by people who study regulation. On occasions I have taken the opportunity to look at the energy industry in the United States where, in the case of regulators of private electricity utilities, often the office of the utility is

four or five storeys high and the office of the regulator next door is 20 storeys high. Often the regulation industry seems to be bigger than the generation industry. We should seek to avoid that. Fortunately we are not in such a litigious society and we are able to avoid that. The people who write about and study these matters say that there is a propensity for regulators to be captured by the activity that they regulate. We need to seek to devise a structure which will reduce the likelihood of that happening. One way to do that is to have a breadth of jurisdiction and scope for the regulator so it is not focused solely on that one industry and activity and it is less likely therefore to be captured by it. When we were debating the gas industry legislation, we on this side of the House put forward the ACCC as an alternative because it has a national vision and mandate. It would be less likely to be captured by the parochial gas industry in Western Australia than the sort of person who is likely to be appointed from the gas industry in this State by this minister. We on this side of the House are intrigued to know who will be appointed.

An alternative which I suggest to the Government, the minister representing the Minister for Transport, and the Minister for Energy, is not to create an office of regulator. The Government should set up a regulator who would have the task of regulating the gas, electricity and rail industries, and possibly the water industry if that is to be subject to the same third-party access. The regulator would then have a wide jurisdiction and would be less likely to be captured by the industry to be regulated. I hope the Government adopts that suggestion. The Opposition will be moving amendments to deal with the question of a regulator. Whatever arguments may be debated against either of the options I suggest, either one would be good enough. The point is, the proposition of a director general of transport being the regulator responsible ultimately to the Minister for Transport - the same minister who is responsible for the financial interests of Westrail - is nothing but a mickey mouse proposal. The member for Armadale will remember that when we were debating the gas pipeline access legislation, I described the proposals contained in that Bill as mickey mouse proposals. That is what they were and are. However, I never envisaged anything of a nature such as this to be proposed. I thought those days were long gone. When we first started debating third-party access to gas and electricity when this Government was elected in 1993, the regulatory role was left to the Coordinator of Energy. As we have moved forward, the notion of a proper independent regulator has been eschewed. That should not be the case. The notion of the Coordinator of Energy being the person responsible for regulating the energy industry has been rejected by commentators. We are going backwards. The proposal contained in this Bill dates back to 1993 and earlier. It should be rejected as entirely inappropriate for what should be a genuine and proper third-party access regime.

For all of those reasons this legislation is deficient, although we support it because it provides some third-party access.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [12.12 pm]: I thank the members opposite for their in-principle support of the legislation. Some of the matters raised in the second reading debate will be debated during the committee stage. I want to make some preliminary comments in response to the second reading debate and then focus on some of the specific concerns raised by members of the Opposition.

Over the past 15 years, Western Australia has progressively opened up the rail system to competition from road transport. This led to significant improvements in rail efficiency which has in turn been reflected in lower freight rates and elimination of the past chronic rail deficits. In 1997-98, Westrail recorded an operating profit for the third consecutive year of $46.2m, an increase of $3.7m on the previous year's result, which further consolidates Westrail's position as the most successfully performing government-owned railway in Australia. For the large part of its businesses, Westrail faces stiff competition from road operators able to utilise efficient, large combination vehicles such as road trains. However, for some traffic such as large-scale bulk hauls, rail is the only economical means of transport and this confers an effective monopoly on Westrail. In addition, some other rail operators believe that they can provide services more efficiently than Westrail and have been pressing for access to the Western Australian network. For these reasons, on-rail competition offers the possibility of extending the benefits of competition gained from inter-modal competition. Access has been possible for several years following an amendment to the Western Australian Government Railways Act. However, up to this date it has resulted in operators not in competition with Westrail securing access; that is, interstate operators.

Current arrangements have neither prevented applications for declaration of parts of the Westrail network under the National Competition Policy nor provided a framework in which rail operators can negotiate access with the infrastructure owner on transparently equal terms. As a result, the Government has decided to introduce an access regime to the WA railway network based on Westrail continuing as a government-owned integrated rail service. The proposed regime provides a legally enforceable right to negotiate access and an independent dispute resolution process through an Act and subsidiary legislation in the form of a code.

Ms MacTiernan: This is the second reading speech. You have got it confused.

Mr OMODEI: No. I have one more thing to say. Then I will refer to the comments by the member for Armadale.

The negotiation-arbitration model will ensure that access prices are fair. By referencing the Commercial Arbitration Act, the code enables the arbitrator to acquire any information that he or she needs, including access prices negotiated by other operators, to be able to determine the terms and conditions of access.

I refer to some of the issues raised by members, particularly the member for Armadale. On the question of stalling the rail access regime, the Government is committed to progress rail access on a priority basis. There is a clear expectation among users and operators within the rail industry that the proposed network be open to access in the near future. The Government is also very conscious that deferring the legislation will risk parts of the track being declared under the National Competition Council process. This can lead to the Australian Competition and Consumer Commission setting terms and conditions of access to the track, an outcome that we are keen to avoid.

The NCC has already recommended declaration of the Perth to Kalgoorlie track. However the Premier rejected the recommendation on the ground that a state-access regime was about to be introduced. The proposed changes to ensure that the rail access legislation can be applied to a government-owned Westrail as well as to a privatised Westrail were introduced by the Minister for Transport but were defeated in the Legislative Council.

Ms MacTiernan: That is right, because we wanted to have some guarantee that before you flogged off the State's assets, you had to come back to Parliament.

Mr OMODEI: The Legislative Council has also amended the Bill to make the code regulations disallowable by Parliament, despite the arguments forwarded by the minister. This has the effect of further delaying the implementation of the regime.

On the question of fixed prices on the Westrail network, the issue of posted tariffs as they are otherwise known was considered by a working group of the Western Australian Rail Advisory Council comprising government and industry representatives. There was general agreement that the industry does not want posted tariffs.

Ms MacTiernan: Is that right? Who was that? Does the minister know?

Mr OMODEI: No, I do not, but I can find out for the member for Armadale.

The Department of Transport is currently reviewing the advantages and disadvantages of mandating reference tariffs being provided as additional information and how they might be applied practically to a large network with a number of different traffic types. However, the market-based pricing between a price floor and a price ceiling to be determined by commercial negotiation will be maintained. This pricing model is similar to that which has been adopted in New South Wales, Victoria and South Australia.

Ms MacTiernan: Do you understand the difference? Their rail track managers are not above-line operators. Your system will not work when the rail tracks are managed by the same person, who is a competitor on the above-line.

Mr OMODEI: That is debatable.

The access prices reflect a combination of many factors, including commodity type, length of train, weight, speed, priority for access, the particular section of track in question and the number of other track users. The duration of the contract also is an important factor: An operator negotiating a 20-year contract would receive a rate and set of conditions different from those of another operator wishing to haul something for the next six months. However, the code contains certain principles to be applied in negotiation prices for access, including the consistency of application and fair and reasonable apportionment of costs. There are constraints also to ensure that Westrail does not earn excess profits from any particular route with the implementation of revenue caps.

Members opposite have indicated they would prefer to see the State's tracks managed by a separate rail track authority which did not have a conflict of interest. If they took the time to understand the dynamics of the interrelationships between Westrail's above and below operations, perhaps they would not be as quick to make this recommendation. Western Australia has an extensive, low-traffic-density network and a wide availability of road transport as a competitive alternative. To be competitive, Westrail must have better overall commercial knowledge about the range of traffic on offer, the railway's operating cost structure, how costs vary with volume and so forth which can be applied to achieve an optimum balance of above and below rail pricing decisions. An integrated Westrail is likely to have a better understanding of entire cost-chain implications which would allow management to more closely match service and pricing.

A separate rail track authority could only estimate the true competitive economics of individual traffic, resulting in reduced overall capability to effectively price infrastructure to maximise market penetration. Separation could also lead to a potential loss of control over infrastructure investments and maintenance decisions for the Government. Vertical integration provides lower risk, and evidence shows that lower risk increases the ability of the organisation to fund innovation. In addition, innovation requiring a coordinated above-and-below rail response is more likely to occur with an integrated Westrail.

Ms MacTiernan: We say that, under those circumstances, it is absolutely imperative that you have a posted rate regime and an independent regulator. The economic arguments may be debated; however, you have a combination that is indefensible. You have vertical integration, band pricing and a compliant regulator. Taken as a whole, this is a dog's breakfast.

Mr OMODEI: We are saying the regulator cannot be directed by the minister.

The loss of coordinated internal decision-making as a result of separation can create additional costs and an impact on

revenue. When the density is light and intermodal competition is high, such as the State's grain lines, vertical integration enables Westrail to maximise efficiency.

The member for Cockburn commented on the independence of the regulator. Some concerns have been expressed about the Director General of Transport being the rail access regulator. The role of the regulator comprises monitoring, enforcement and administrative functions for the implementation of the code. The regulator is not the arbitrator and does not have any influence on the commercial results of the dispute over access prices and any other factors. The Bill explicitly prevents the minister from directing the regulator. I hear the comments made by the members of the Opposition. The director general is currently the rail safety regulator under the Rail Safety Act, a position which also requires independence to promote the safe construction, maintenance and operation of railways. I understand that Hon Murray Criddle has indicated to the Legislative Council that if an independent office of the regulator general is set up some time in the future, he would be happy to support the transfer of the functions of the rail access regulator from the Department of Transport to such an office.

The member for Cockburn made many comparisons with the code and commented on whether it should be introduced by regulation. He also mentioned comparisons between the regulator and the gas regulator. The Government is saying that the code is not appropriate as a regulation and is more of a manual on the provision of access and a way of setting up the process and the procedures. It is comparable in this way to industry codes of conduct, which are typically determined by the executive Government. The code deals with matters such as information about the regime, the time lines, the role of the arbitrator, what must be included in an agreement, and the framework within which prices should be set. The proposed status of the code has precedents in other States. The New South Wales access code, which was used as a model for the WA code, requires only government gazettal. In Victoria, while a number of the code provisions are in the Rail Corporations (Amendment) Act, the Act provides the Governor in Council, on the minister's recommendation, with the power to declare rail transport services and specify pricing and other principles to be applied in an access regime outside the parliamentary process. Likewise, the South Australian Railways (Operations and Access) Act requires only the Government to proclaim any changes to the application of the access regime and the assignment of the regulator to a nominated authority. Also, in South Australia the regulator, not the minister, establishes the pricing principle. The Bill requires the minister to undertake a public review process and to have regard to the submissions received, prior to amending, repealing or replacing the code. Finally, any changes to the code that are required to comply with the National Competition Council requirements to ensure certification of the regime should be able to be implemented without the risk of subsequent amendments through the parliamentary process.

Finally, I will briefly talk about the question of the access regime and its relationship with the sale of Westrail. This access regime is all about enforcing an effective access regime. The Bill and the code must be amended before they can be applied to a private rail owner of Westrail. This issue, including the sale options, is being addressed by the rail freight sale task force, which, when it has completed its deliberations, will come back to the Government with a report on which the Government will decide whether to proceed with the sale of Westrail; and, if so, what form that sale will take.

Ms MacTiernan: No-one believes that. You simply have not decided whom to sell to.

Mr OMODEI: I am telling the member that at the moment the sale of Westrail is with the rail freight sale task force.

Ms MacTiernan: You have employed an executive and are paying him $250 000 a year. You have employed him specifically to sell Westrail; that is his job.

Mr OMODEI: That is what the rail freight sale task force is considering at the moment, and whether it should be referred to a task force for recommendations on how that would happen.

I thank members for their in-principle support. A number of amendments are on the Notice Paper. I noted with interest that much of the debate that took place in the Legislative Council concerned the sale of Westrail. This Bill is about access principles. Whether the sale of Westrail occurs is a matter for another debate.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

Clause 1: Short title -

Ms MacTIERNAN: The minister in his reply to the second reading debate referred to the operating profit of Westrail as proof of the success of the change to its operation. I must respond to a number of matters. Westrail basically abandoned a whole host of areas to focus on areas which maximised profits. As a result, a lot of freight was shoved onto road, the

impact of which can be seen in Main Roads' budget and the ever-increasing need to impose heavy fuel levies and licence fees on Western Australians. This is, in part, to cover up the action taken by Westrail. The economic benefit of this initiative must be looked at twice. It is costing us $200m a year to maintain the existing bitumen -

The DEPUTY CHAIRMAN: We are dealing with clause 1. I remind the member to confine her remarks specifically to the short title of the Bill.

Ms MacTIERNAN: I am concentrating on the minister's reply to the second reading debate on the presumption that he was relevant. I will not take long.

The DEPUTY CHAIRMAN: I will give the member some latitude, but please be brief.

Ms MacTIERNAN: The Minister for Local Government should be particularly aware of the degree to which country shires have had to take up the slack with road maintenance and construction as a result of Westrail's pulling out -

Mr Omodei: That is not correct. Main Roads has almost doubled its budget in the period of this Government.

Ms MacTIERNAN: It is a combination of factors. This change has resulted in increased costs relating to roads for which country shires have responsibility. Much of the slack has been picked up by Main Roads. However, it is nonsense to say that we should be celebrating the cost savings by Westrail when we, the metropolitan motorists, are picking up the cost and providing subsidies by way of roads. In a holistic approach, the development has been to the detriment of the public.

The DEPUTY CHAIRMAN: The member must confine her remarks to the short title of the Bill.

Ms MacTIERNAN: The profit in any event is highly contrived. In the order of $70m was taken from Treasury's budget and called community service obligations, but these factors were always part of Westrail's budget. The major scam has been the treatment of maintenance, which is now called a capital cost and added to the capital budget. All of a sudden we see the profit, and a massive blow-out in the capital liability of Westrail.

Mr Bloffwitch: How did they put maintenance into capital?

Ms MacTIERNAN: I will show the member how it was done; I have the documents.

The DEPUTY CHAIRMAN: I am not being obstructive, but the member will draw her remarks to a close.

Ms MacTIERNAN: I thank the Chair for allowing me to respond to the minister; I made the foolish presumption that his comments were relevant to the Bill.

Clause put and passed.

Clause 2: Commencement -

Mr THOMAS: I refer to the definitions of "code" and "regulator". In the second reading debate I pointed out that a proper third-party access regime involves a number of elements, one of which is the code; namely, the rules which set out the means by which third parties are able to gain access to the infrastructure. It is most desirable that those rules be clear and transparent so the rights of the would-be private rail operator are well known. Also, it should be easy to ascertain the obligations on the provider of the infrastructure. A model in this area is gas pipeline access law, which involves a clear code: Anyone who wants to know the rules can look at the book outlining the rules. It is complex, but it can be read, with effort, to determine precisely one's rights and the obligations of the infrastructure provider. This legislation is highly deficient because it does not contain such a code.

I thought I heard the minister say in his reply to the second reading debate that some difference existed between this proposed regime and gas pipeline access law. Why is a code not contained in the legislation? Members of Parliament should be very wary about this situation as we are creating law which could conceivably impact heavily on the health of our rail system and the commercial operations of some companies which enter this area. It is important that the law be applied fairly, which may not be done. Clause 4 states that the minister must establish a code. Therefore, the code is defined, notwithstanding that the minister said there would not be a code. The definition outlines that it is to be a code operating for the time being under clause 4, which states that the minister has an obligation to establish a code. I was deeply concerned when I read that provision. I found a little comfort when I read elsewhere in the Bill that the code is delegated legislation for the purpose of section 19 of the Interpretation Act. That means we will at least have the opportunity to disallow the code if we believe that some aspects of the code are not fair and proper. However, as legislators, that is second best, because disallowance must be all or nothing. We can say we do not like some aspect of the code and disallow the whole code, but we may be throwing out the baby with the bath water. We may wish to amend some aspect of the code, but on balance be not too unhappy with the code as a whole. That is why the right to disallow is a poor substitute for the right to amend. This legislation is defective, because it does not set out an explicit code which enumerates the rights of potential operators who wish to avail themselves of the third-party access rights that this legislation is creating, and it does not set out the obligations of the infrastructure proprietor with regard to those rights. The Government should at the earliest possible date write a code into the legislation so that the Parliament can determine whether that code is adequate.

Mr OMODEI: There will be a code. The reason that the Government prefers to have the code not subject to disallowance - in other words, not subject to regulation - is that a number of other mechanisms must take place: The minister must consult publicly before the code is prepared; the code must then be referred to the National Competition Council; and the code must then come back to the Parliament and be subject to disallowance. Originally, the Government was not in favour of the disallowance arrangement, because it formed another hurdle that it had to get over. The Legislative Council amended the legislation to provide that the code is now subject to disallowance. Therefore, the code can now be changed through two mechanisms: It can be changed at the NCC level; and if it is disallowed by this Parliament, I dare say it will need to be changed to comply with what the Parliament will accept.

Ms MacTiernan: Has the code been drafted?

Mr OMODEI: Public consultation has taken place to prepare the draft code. It will then go to the National Competition Council, and it will also be subject to disallowance by this Parliament, before it becomes the code.

Mr THOMAS: Sadly, the minister does not appear to understand the point that I am making. I can understand the minister's explanation of why the Government has not put a code in this Bill. However, that is not good enough. The minister has said that the Government will need to get over a number of hurdles - the NCC and all sorts of things. The Legislative Council has now imposed upon the Government an obligation to table the code in the Parliament; and we should be grateful to the Legislative Council for that. However, that is still a poor substitute for having the code in the Bill. This area is the responsibility of the Western Australian Parliament. We are told that the NCC will have the opportunity to amend the code. I guess we should be comforted by that fact. However, I would prefer that the Parliament exercise its responsibility and ensure that the code is right and proper by having it in the legislation with which it deals.

We then go to the regulator. Clause 3 states that -

> **"Regulator"** means the official provided for by Part 3.

Part 3 of the Bill provides that the regulator is the chief executive officer of the Department of Transport. This legislation is most defective. It does not contain a code, which is the essential element of a third-party access regime, and it does not provide for a regulator. We will support the legislation, because we are in favour of third-party access rights, but if the Government were doing its job properly, it would withdraw the legislation and come back with a decent proposal.

Every field of endeavour in which a third-party access right has been created provides for a code, which sets out the rights and obligations of the parties. We went through this only a few months ago with regard to gas. Other jurisdictions have been through it with regard to gas, rail and electricity, and also water, although to a lesser extent, because the opportunities do not arise as often in the case of water, but the principles are the same. It also provides for a regulator, because it is the way of the world in these commercial activities that differences will arise about the construction of particular provisions, about how the rules should be applied, and about what people should be able to do in particular circumstances, and those matters must be sorted out. However, the sorting out of those matters provides the scope for mischief.

I mentioned earlier that when the State Energy Commission of Western Australia was the proprietor of the Dampier to Bunbury natural gas pipeline, it had the responsibility of setting standards for the quality of the gas which would go through that pipeline. Many people in the gas industry believe that the SEC used that responsibility not only to ensure that the gas was of an adequately high quality, but also to protect its commercial interests. The Harriet Joint Venture had some cheap gas that it wanted to sell, and it told the SEC that it could secure a market for its product and would like to use that pipeline to take its gas to that market. The Harriet Joint Venture had the right to do that under the Petroleum Pipelines Act, because that Act provides for third-party access rights. However, it did not have a proper regulator. Therefore, the State Energy Commission of Western Australia, in its capacity as proprietor of the pipeline, told that gas producer that it could not use that pipeline to transport its gas, notwithstanding the fact that it had a statutory right to third-party access.

Mr CUNNINGHAM: I have been taken aback by the thrilling remarks of the member for Cockburn and would like to hear more about this pipeline.

Mr THOMAS: The State Energy Commission of Western Australia allegedly used its position as the proprietor of the pipeline and the regulator of gas standards to protect its commercial interests and prevent producers of gas from competing with it. These are the sorts of questions that arise. If the owner of the rail infrastructure, Westrail, had a proper commercial interest in protecting its market, it might seek to prevent competition and to use one of the quite technical aspects of the operation of the rail system to prevent someone from competing with it. That is the sort of thing that a prudent commercial organisation can be expected to do and will do, and these questions arise all the time.

Very complex litigation is currently taking place in the eastern goldfields between Normandy Mining Limited and Western Power, where Normandy is alleging in the Federal Court of Australia that Western Power is using its position as the owner of the electricity transmission grid to prevent Normandy from selling electricity - in one case, I think to itself on another site - in order to protect its market. That is why it is absolutely critical to have an independent regulator.

Who will be the regulator? It will be the head of the Department of Transport who, in the exercise of his functions, answers to the Minister for Transport. That same minister is responsible for the financial health of Westrail, with all the budgetary implications of that. It is a mickey mouse third-party access regime. This Government must decide whether it will have a third-party access regime and a competitive transport market. I am in favour of a competitive transport market because I regard the railways fondly, and I want to see more freight and passenger traffic carried by rail. The way to do that is by providing a competitive market that enables more people to get into the business of operating railways on the publicly owned rail system. That is less likely to happen without an independent regulator. The examples are legion of circumstances in which people are too close to the activity they purport to regulate. They become captured by that activity, and they do not regulate the activity in as fair and independent a manner as they might. I gave a couple of examples in the second reading debate, and I do not need to canvass them again. The Government has a number of options: First, it can bring in the Australian Competition and Consumer Commission, as it should in relation to the gas pipeline access law; or, second, it can create a comprehensive office of regulator in this State, which would regulate not only rail, gas or electricity, but all of those activities, and possibly water if its supply becomes subject to a third-party access regime. It is difficult to think of a structure which is more likely to create a situation in which the regulator will have the propensity to be captured than one in which that person is head of a government department answerable directly to a minister. He will obviously be in the same milieu, and he is likely to be subject to direction or influence by his minister in the exercise of his powers under this legislation. Even if that were not the case, he is likely to be caught up in the atmosphere and milieu of that activity. Not only is there no clear, transparent code which creates rights and obligations, can be amended by the Parliament and is set down for everyone to see how it operates, but also there is not a fair umpire. The allegations that have been made in the energy industry in this State demonstrate that there must be an independent regulator if this Parliament is serious about establishing a competitive rail industry.

Mr OMODEI: Two matters were raised by the member for Cockburn. The first related to the code and whether it should be included in the Bill. We must agree to disagree on that matter. The code is subject to change at the National Competition Council level, and at the parliamentary level it can be disallowed. No doubt, if it is disallowed it will be changed. Likewise that will occur at the national level. The member spoke about the regulator, whose activities are covered by part 3 of the Bill. The role of the rail regulator is quite different from that of the gas regulator. Under this Bill the regulator will monitor and enforce the requirements imposed by the regime.

Mr Thomas: That is what the gas regulator does.

Mr OMODEI: Yes, but the gas regulator also deliberates and arbitrates on prices.

Mr Thomas: No, that is done by the arbitrator.

Mr OMODEI: There is an arbitrator as far as this legislation is concerned. The regulator does not set prices or resolve disputes. On the other hand, the gas regulator is like a state competition and consumer commission. He or she sets prices and approves access undertakings of the gas suppliers. It is a much bigger operation. I understand the office of a gas regulator has a budget of $700 000. In the case of the rail regulator, it will be a much lesser responsibility and in cases of dispute about setting prices, an arbitrator will resolve those issues. The role of the arbitrator is set out in the legislation.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Minister to establish Code -

Ms MacTIERNAN: The member for Cockburn has commented on the failure to include the code within the legislation, and I endorse that. The issue I shall discuss now is somewhat different. The Opposition has seen a draft of the code and understands what the Government is proposing to do in the code. The Opposition still believes that the code should be in the legislation. I seek to place a limitation on how the code is framed, by not adopting the proposed pricing policy contained in the draft code and by prescribing a different regime. I move -

Page 4, after line 24 - To insert the following -

(d) prescribing a regime of posted rates based on the full distribution of costs and which results in similar prices to consumers of a common service.

Westrail's pricing policy for third parties may be a bit dry for some members to come to terms with. The pricing policy proposed to be adopted by Westrail is the floor-ceiling approach, or Ramsey pricing. Ramsey pricing is the regime currently proposed by the Government under its code. It would give Westrail, as track manager, the right to charge a competitor any amount within a band from the marginal cost of providing that service up to a ceiling of an average cost of providing that service. It is an extensive band. The minister said in the second reading debate that this pricing policy had been adopted by New South Wales. Two points should be taken into account: First, it has yet to be endorsed by the National Competition Council. Second, New South Wales has a very different system. It is a dedicated rail track authority, so it does not have

the problem Western Australia is trying to deal with, of a vertically integrated operation where the track manager, who is controlling the access and the prices, is also a competitor. When I have raised this over time with ministerial advisers, I have heard some nonsensical arguments and they have disagreed that anything other than this pricing regime could be adopted. The Australian rail track authority does not do it. I will shortly set out some of the commentary on this Ramsey pricing by people who will be affected by it, and by some of this country's leading economic commentators on this area of pricing. It probably would be instructive if some of the advisers recognised that these matters are not coming from the Opposition alone.

Sitting suspended from 1.00 to 1.30 pm

Mr THOMAS: We are discussing the code. It is not my intention to repeat my comments at any great length. When we considered the definitions earlier, I pointed out the dearth of content. There is no code, merely some subject headings covering what will be in it. That is reflected in this clause. It is deficient. The amendment by the member for Armadale will improve it.

Ms MacTIERNAN: We have been talking about the appropriateness of the ceiling-pricing mechanism proposed to be in the code. I sought to point out some commentary on this matter. As the minister said, this has been incorporated in the draft New South Wales code. In New South Wales there is a separate rail track authority. Some of the mischief we are seeking to avoid in Western Australia is far greater because the track manager will be a competitor. Even in New South Wales, where there is a separate rail track authority, the National Competition Council was concerned about this pricing policy and commissioned a report on it by Dr Cousins. It has taken some advice on it. Associated with this policy is Ramsey pricing. In part, the report states -

> Dr Easton argued against Ramsey pricing being used in instances of common good production, such as coal, because it changes the relative competitiveness of producers in the final market. Associate Professor Trace also argued against the use of Ramsey pricing in such instances stating it was essential that Ramsey prices did not debase the relative competitiveness of the common good producers established by upstream/downstream competitive factors.

Protests were also lodged by the New South Wales Minerals Council Ltd saying that it will interfere with competition when similar products are given at different cost ratios. It is important to understand the point, although it can be a bit dry. This regime allows Westrail to decide that even for a person wishing to move goods of an identical nature over an identical distance, Westrail is given the capacity to charge a price within a band that varies between average and marginal costs, which can be quite a concise cost differential. The alternate pricing is referred to as a fully distributed cost approach. It means that Westrail seeks to recover all the costs of having these operators going on the line, but that there is a common cost for common users. It is not possible for Westrail, or the rail operator, to try to disadvantage its competition, or to play favourites between competing operators that may have identical distances to travel. It is a somewhat complex point, but I hope the minister has absorbed it.

I seek answers to some specific questions: Has the minister taken advice from the users? Has the view of the users of the system - the major mineral producers - been sought on the band pricing mechanism? When I talked to them, they were not happy about it. Has the opinion of the existing third-party operators, such as Specialized Container Transport, Toll Rail and the National Rail Corporation, been sought about this? What discussions have taken place with the National Competition Council about the attitude it would direct towards this pricing approach, given that Westrail is also an above-line operator?

These are very important issues. If we are to talk about competition, we must be serious about it. The minister knows that our underlying concern is that this is simply going through the motions to make it appear that the Government is going down the track, when there is no serious intention to do that.

Mr OMODEI: As I mentioned in my reply to the second reading debate, the Government has no intention of posting or fixing access prices on the network. The issue of posted tariffs was considered by the Western Australian Rail Advisory Council working group.

Ms MacTiernan: Could you tell us who is on this group?

Mr OMODEI: Yes. I am just getting to that. That group comprised government and industry representatives. There is general agreement that the industry does not want posted tariffs. That committee comprised representatives from Co-operative Bulk Handling Ltd, Alcoa of Australia Ltd, Anaconda Nickel Ltd, WMC Resources Ltd, Toll Rail, National Rail Corporation Ltd, Sadliers Transport and WESFI Manufacturing Pty Ltd. The Department of Transport is currently reviewing the advantages and disadvantages of mandating reference tariffs - in other words, indicative prices - and those being provided as additional information, and how they might be applied practically to a large network with a number of different traffic types. The pricing principles as proposed in the code have been referred to the NCC which is happy with those recommendations.

Ms MacTiernan: When you say it has considered the rates, are you saying that you have received advice?

Mr OMODEI: That has not been through the council, but it has been referred to senior officer level and those people are not unhappy with the proposals. In the case of the prices, in the end there is an arbitrator who has access to all of the information when deliberating over the matters. The pricing model we are adopting is similar to that in New South Wales.

Ms MacTiernan: Do you accept the difference is the substantial structure?

Mr OMODEI: I do. However, the NCC has recommended an improvement in relation to that model to the commonwealth Treasurer.

Ms MacTiernan: It is a separate track authority. The NCC may well take a different view in this case because in Western Australia we have a vertically integrated operation?

Mr OMODEI: That is not the impression that has been given so far. As I said, at senior officer level there has been agreement, and I presume it is a formality to get approval by the NCC.

Amendment put and negatived.

Clause put and passed.

Clause 5: Criteria to be considered in applying Code to particular routes -

Ms MacTIERNAN: Are the routes which will be prescribed set out in the legislation?

Mr Omodei: They are set out in the code.

Ms MacTIERNAN: Could the minister give us some idea of whether this regime is ever likely to apply to the private rail lines, such as those that are owned, for example, by Hamersley Iron Pty Ltd; or is there a separate regime for access with those operators?

Mr OMODEI: The code applies to the Westrail system. However, the private lines - the member referred to Hamersley - will still be subject to the Trade Practices Act and therefore subject to competition.

Ms MacTiernan: Would the minister ask his advisers if this has been an issue with the private operators?

Mr OMODEI: It has not been canvassed with them. Obviously, it is a privately owned line.

Ms MacTiernan: The minister is not aware of Robe River Iron Associates seeking to access Hamersley lines?

Mr OMODEI: That has been done under the national access regime, which is under the Trade Practices Act.

Clause put and passed.

Clauses 6 to 11 put and passed.

Clause 12: Review of Code -

Ms MacTIERNAN: I move -

> Page 9, after line 18 - To insert the following new subclause -
>
> (1) The Regulator must complete a review of the Code four weeks before any sale or lease of the railway infrastructure currently subject to this Act.

The terms of my amendment are self-evident. Clause 12 deals with the review of the code. We believe that once Westrail is sold to a private operator, as it will be a vertically-integrated operation, there will need to be a review of the code at that point. All persons who will be affected by the proposed sale will need the opportunity for input into this code. The changing nature of the ownership of Westrail could fundamentally alter what we should be doing regarding this system.

Mr Omodei: Does the member have a definition of "railway infrastructure"?

Ms MacTIERNAN: The Bill contains a definition of railway infrastructure at page 3. I am not talking about the freight business. This refers to all those things that are generally considered to be the rail infrastructure, including the tracks and the control mechanisms. We take the view that the sale of Westrail as a vertically integrated operation to a private operator is an event of sufficient moment and commercial consequence to warrant the code's being reviewed at that point, and it warrants an opportunity for all the affected parties to have an input at that stage. The affected parties would include the major users of Westrail, which would obviously include companies such as Co-operative Bulk Handling Ltd, Alcoa of Australia Ltd and the mining companies.

Mr Omodei: Is the member for Armadale aware that paragraphs (h) and (i) of the definitions clause do not include private sidings and spur lines?

Ms MacTIERNAN: Yes, I saw that.

Mr Omodei: I wondered whether the member was referring to rolling stock or something like that.

Ms MacTIERNAN: What happens to private sidings is irrelevant. Basically, we can take the proposed sale of Westrail to consist of two component parts: Part one is the above rail freight operation; part two is the railway infrastructure. It does not include the private railway sidings, which is an amazing deviation from the -

Mr Omodei: Rolling stock is not included either.

Ms MacTIERNAN: I am not particularly talking about the rolling stock. If one goes back to first principles, the issue about which we are concerned is who is controlling the tracks. The minister might tell me that the rolling stock will be sold off to someone else. That might happen. The Government is doing that with the buses and the cars and a range of other things. I am principally concerned about the announced government plans to sell the rail track infrastructure along with the freight business. The people here who are advising the minister are clutching at straws. The crucial issue that we are talking about is the proposed sale of Westrail, the impact that will have on the code, and whether that is an event of sufficient importance and economic consequence to warrant the code's being reviewed. We are arguing that it does very strongly, because it will completely change the dynamics between the manager of the rails and the people who are seeking third- party access.

Mr THOMAS: The point that my colleague raises is a matter of profound consequence. If we are talking about setting up a third-party access regime so that we can have a competitive rail industry, and at the same time the Government is talking about selling a vertically integrated operation, that is quite contrary to the notion of having a competitive rail industry. Throughout various areas of endeavour these days when these types of propositions are considered, the notion is to break up vertically integrated monopolies. We have seen that in the energy industry. Throughout Australia, with the exception of Western Australia, we have seen the break-up of generation from transmission. If one wants to draw analogies with the energy industry, the equivalent in the rail industry is to break up the permanent way, I think it is called in rail jargon, and the rolling stock; that is, the transmission facilities and the rolling stock that runs on them.

We are opposed to privatisation. The minister said today that the Government was not intending to try some type of underhand 99-year lease privatisation by sleight of hand, and that if it were to pursue the privatisation of Westrail as a vertically integrated operation or otherwise, it would be by legislation. I was pleased to hear that, because that means we will all have the opportunity to debate it in Parliament. I suspect it will be the mother of all debates when the Government brings that into the Parliament. I hope it will be rejected in the other place, if not here.

If that is still the Government's intention, I hope it will go to an election in 2001 or whenever it happens to be and campaign on a policy of the privatisation of Westrail and any other bodies it wants to sell. I am quite sure the people of Western Australia will, as they should, have an opportunity to vote on such a significant matter. I have no doubt they will reject the privatisation out of hand and the Government will be consigned to the opposition benches, which is where it deserves to be. Be that as it may, the fact of the matter is, as my colleague has said, if the vertically integrated operation of the permanent rail and rolling stock were to be privatised, it would be a matter of enormous commercial significance. The Government would be establishing a privately owned monopoly. As to competition theory, many people look rather darkly on publicly owned monopolies. Before they worry about publicly owned monopolies, they need to worry an awful lot more about privately owned monopolies which are much less readily regulated. For that reason it would be necessary to have very watertight regulations. At most we have here a broad series of subject headings with no prescription. Obviously it would be necessary if privatisation occurred, probably more than on any other occasion that might arise, to take the opportunity to review very tightly the regulatory framework. If we were to have what is purported to be a competitive rail environment after a vertically integrated railway system had been put into private hands, I could conceive of no other circumstances in which it would be more necessary to have a comprehensive review of the adequacy of the code - that is the law in force - and also the nature of the regulator. It would be necessary to ensure that the person had the powers and resources to carry out the job, otherwise we could be creating a private monopoly which was not subject to proper control. I suggest that would be disastrous.

Mr OMODEI: The Bill and code before the Chamber apply only to a government-owned railway. If the amendment is put in place for any other reason, it is not relevant. If the railway were sold, then the code and this Bill would need to come back to the Parliament for amendment to comply with whatever had been proposed once deliberations had taken place. If the amendment were to become part of the legislation, and if, for example, the commissioner sold off used railway sleepers which were no longer required as part of the track, it would require the regulator to review the code before the sale or lease of any infrastructure. That regulation would then need to come to the Parliament and would be subject to disallowance through the normal process of being laid on the Table for a certain number of days. That is certainly not the intention of this legislation.

Ms MacTIERNAN: We could easily put in an amendment to deal with it. The minister has not addressed the substantial issue that we are talking about. He has sought - I am not blaming him personally - to engage in a fairly nitpicking response. There are ways around it. We could say "a substantial component". However, we will not bother amending the amendment.

We want to make this a very clear point: The Government cannot put in a structure like this and expect it to be adequate once the Government has gone down the track of selling off this operation to a private operator.

Mr Omodei: You always refer to a sale. This legislation refers to a government-owned railway only.

Ms MacTIERNAN: If the Government goes along the course that it has agreed on, it will sell it.

Mr Omodei: We might not.

Ms MacTIERNAN: The Government might sell it. It has spent over $1m looking at selling, so we are presuming that there is at least a possibility that it would be sold. If the Government does not sell it, the amendment will not come into play. If the Government does sell it, it will come into play. As has been set out very clearly by both the member for Cockburn and me, that sort of instance is of such significance that the code must be reviewed. The minister clearly does not see that. Having made our point we will leave it at that.

Amendment put and a division taken with the following result -

Ayes (13)

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

Noes (21)

Mr Baker	Mrs Holmes	Mr Marshall	Mr Shave
Mr Barnett	Mr House	Mr Masters	Mr Trenorden
Mr Board	Mr Johnson	Mr McNee	Mr Tubby
Dr Constable	Mr Kierath	Mr Minson	Dr Turnbull
Mr Day	Mr MacLean	Mr Omodei	Mr Bloffwitch *(Teller)*
Mrs Hodson-Thomas			

Pairs

Mr Kobelke	Mr Court
Mr Marlborough	Mrs van de Klashorst
Mr Brown	Mr Wiese
Mr McGinty	Dr Hames
Mr Grill	Mr Bradshaw

Amendment thus negatived.

Progress reported.

[Continued on page 3706.]

[Questions without notice taken.]

MINISTER FOR HEALTH - CENSURE

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received within the prescribed time a letter from the member for Fremantle seeking to debate as a matter of public interest the following motion -

> That this House declares no confidence in the Minister for Health for deliberately misleading the Parliament about the financial crisis confronting government hospitals in Western Australia and trying to cover up the extent of his financial mismanagement.
>
> The House demands that the Minister fully inform the House of -
>
> (a) the 1998-99 budget allocations to each health service and each hospital, with details of those health services which did not initially accept the Government's funding offer; and
>
> (b) the latest budget figures provided by each health service in respect of each hospital for expenditure to date compared with budget and including projected budget outcomes if current spending levels are maintained.

On looking at the matter I considered whether it was two motions rolled into one. The matter contains two paragraphs, each of which could stand independently as a motion. One is a no-confidence motion; the other is a motion demanding that the

minister provide information. The decision on whether they are separate matters is marginal as they are closely related. As I am generally more inclined to allow matters to proceed rather than to restrict them, I will allow the motion to proceed on this occasion, although I caution members that matters of public interest should be restricted to one matter only and care should accordingly be taken in the drafting. The matter appears to me to be in order, albeit just in order. If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis, with half an hour allocated to members on my left, half an hour to members on my right, and five minutes to the Independent members, should they seek the call.

MR McGINTY (Fremantle) [2.41 pm]: I move the motion.

Last financial year, the State's Health budget ran at a deficit of $97.761m. The Minister for Health has never stood in this place or with the media and advised the public that that was the extent to which the Government under-budgeted and under-provided our health system with funds to enable it to get on with the important function ahead of it. That was revealed only yesterday when the 1997-98 summary of consolidated fund transactions from the State Treasury was tabled in this place. This document revealed, for the first time, the full extent of the financial crisis that beset our public hospitals and Health Department during the course of last year. The amount of $97.7m is an enormous deficit. The Minister for Health should have been in this place to account for it. We all knew of the extent of the crisis that was besetting our public hospital system and a number of debates took place in this Parliament during August and September. During the course of those debates, we saw a deliberate attempt by the Minister for Health to deceive and mislead this House about the financial position confronting our hospital system.

Let me take members back to the debate on 20 August this year. The Minister for Health was quite clear-cut; there is no doubt about that. On page 662 of *Hansard* he is reported as saying -

> . . . all health services stayed within their funding allocation with the exception of the Geraldton Health Service, which was given an advance of $1m.

I questioned him on that and he went on to say -

> As far as the Metropolitan Health Service Board is concerned, the total out-turn for last financial year was $966.3809m. Some supplementary funding was provided during the year. If that is taken into account, the outcome was that it came within the allocation that it was given.

There was ongoing discussion about that and the result was that the minister revealed that an amount of just under $30m in supplementary funding was provided in November 1997. Putting the Geraldton Health Service to one side, the picture that emerged was that every other health service in the State came in on or under budget and that one lot of supplementary funding was provided by Treasury during the course of the year and that was for an amount of $30m. We now see in the paper tabled yesterday that $97m was the extent of the deficit in the Health budget. From where does that enormous difference come? We pointed out the difference to the minister during the course of those debates, and he denied it during those debates. We were not happy to leave the issue with the debate in August; we raised the matter again in September. As recorded on page 1506 of *Hansard*, I said to the minister on that occasion -

> I suspect that what has happened, although the minister has denied this on the public record, is that supplementary funding in addition to the $30m that was provided in November of last year when the member for Albany was the Minister for Health has been provided at or since the end of the financial year to prop up the hospitals. It is not good enough for the minister to cover that up.

The minister went on to expressly deny that an overexpenditure of the order of $71m had occurred in the metropolitan hospitals. An emphatic "No" was the answer by the minister when I asked him whether an overexpenditure of that nature had occurred. The minister then went on to say -

> The expectation during a certain part of the financial year may have been that there would be a $71m shortfall, but that was not the outcome at the end of the financial year.

I then asked him whether, during the course of the year, any additional funding had been provided by Treasury for the Health budget to which he answered -

> Yes, additional funding of $29m was provided by Treasury in the last financial year.

The minister is deliberately misleading the House. We now know, because the Treasurer has provided us with his information in the form of the summary of consolidated fund transactions, that there was a blow-out of just over $90m in recurrent expenditure and $7m in capital during the course of the year adding up to a total of $97m, which was denied by the minister. It was not only in the House that the minister did not tell the truth; it was also through the mass media. A report in *The West Australian* on 26 August stated -

> The projected deficit in February was expected to be $55 million but Mr Prince said the Government would sell land and take other measures to ensure hospitals did not start the new financial year in debt.
>
> Health Department spokesman Brad Sebbes said the hospitals did not have any debt at June 30 because action had been taken. . . . The hospitals were never $71 million in the red.

That might be right; they were obviously $97m in the red. If that is the excuse the minister intends to give, good luck to him. That sort of speaking with forked tongue will not advance him very far. The article goes on -

> A spokesman for Health Minister John Day said a combination of extra funding from the Treasury, savings from delayed projects - including Aboriginal health projects and capital works in Tom Price and Paraburdoo - and refinancing of department debt meant hospitals started with a clean slate on July 1.

This is a most serious matter and that is why we have moved a no confidence motion. The only conclusion members can reach on the basis of all the material I have presented from *Hansard* and the media is that this minister has deliberately not told the truth in order to cover-up the financial position of the Health Department in Western Australia. We now have the truth from Treasury's documents which spell out the extent to which the Health Department overshot its budget during the course of the year. The budgeted figure - one need only go to the budget documents from last year - indicates that $1.601b was allocated for Health for the financial year 1997-98. We now see from the document which was tabled yesterday that the Health Department spent $1.699b, an overexpenditure of $97.761m. This has never been accounted for. At every opportunity the minister has tried to tell untruths about this matter, to hide it, to pretend that it did not exist and deny its existence when we pointed it out earlier. That is despicable behaviour by a minister because the one thing on which we must be able to rely, if our parliamentary system of government is to work, is that when a minister is asked a straight question, he does not lie about it. Unfortunately, that trust and the whole basis upon which our parliamentary system operates has been broken by this minister telling deliberate untruths about the state of the Health Department budget. Where is that $97m of which he was prepared to admit the existence of only $30m in the form of a bailout in November last year? Where is the rest of it which shows up so clearly in these documents from Treasury? The minister has a duty to answer that question and if he cannot do so, the Premier has no option but to sack him from his position as Minister for Health because he has not told this House or the public of Western Australia the truth about this very important matter.

We have discovered that all hospitals supposedly had a clean slate by the end of last year. There is only one explanation for the overexpenditure of $97m: Treasury provided additional supplementary funding of the order of $67m during the course of that year so that it would finish the year on a break even point because it overspent by $97m the money approved by Parliament in the budget. The Minister has a job in front of him. He must account for this, and if he cannot he should resign or the Premier should sack him.

Mr Day interjected.

Mr McGINTY: The minister should explain where the $90m has gone and why he said that only $30m and not one cent more was provided as supplementary funding during the year.

This is not simply a historical issue. The Treasurer has made available the 1998-99 monthly summary of consolidated fund transactions for the first quarter of this financial year. Yet again it shows an alarming figure in respect of the Health Department. The problem is not confined to the $97m blow-out or overexpenditure during last year; it is also a major problem confronting the Government this year.

The first thing one notices when perusing this document is the commentary about the first quarter to September 1998. In it, Treasury draws attention to the Health Department, and observes a higher demand on funds by the department. Draw downs of moneys by the department for the three months to 30 September 1998 account for 37.5 per cent of the budgeted appropriation for 1998-99. That is, in the first 25 per cent of the year, the Health Department has already spent 37.5 per cent of its annual budgetary allocation. The difference when one looks at it in dollar terms is enormous. The 1998-99 budget allocated $1 544m to the Health Department for recurrent expenditure. In the first quarter, $579m, or 37.5 per cent of the total allocation, has been drawn down and spent by the department. To be fair to the Health Department we should make a minor adjustment to include retained revenue, which on the Labor Party's calculations and based on the Treasury approach to these matters adds up to $81.1m. We should also make provision for the additional Medicare funding of $35m, which goes into the budget this year as a result of the Premiers' agreement about extra Medicare funding. I include those funds because they help the Government's position rather than detract from it. The total allocation, including retained revenue and the extra Medicare funding, is $1 660m, so expenditure represents 35 per cent of all moneys allocated from all sources. One would think that expenditure of 25 per cent of the annual allocation should be made each quarter. This department is spending dramatically more than has been provided in its budget from all sources.

The most alarming issue, and the one the minister should explain, is that if spending continues at the current rate as reported by the state Treasury, which has drawn particular attention to the Health Department's exceeding its expenditure by significant amounts, we will spend a total of $2.316b on Health this year, in contrast with the total budgetary allocation of

$1.660m. In other words, we are looking at a budget blow-out of $656m if spending continues at its current level, which I am sure it will not.

A dramatic overexpenditure - in fact enormous financial mismanagement - has occurred in the Health Department. If that continues, we will have a budget blow-out of over $600m this year. Where has the minister been? It took Treasury to bring this matter to the attention of the public. What can account for such a dramatic overexpenditure? I can think of things such as back pay for nurses of about $8.5m, but that is a drop in the ocean. Perhaps it was a deferral of last year's bills, particularly given that the federal election came along. Perhaps the Government wanted to keep a lid on these things, or perhaps it put on too much pressure. This Government has not allocated enough money to enable our hospitals to operate properly. The minister has just trumpeted during question time -

Mr Day: You complain when allocations go up -

Mr McGINTY: I am complaining that the minister is not telling the truth. In the two debates in August and September, the minister deliberately misled this House. There can be no other explanation for it. I have provided the *Hansard* references to the minister so that he can look at his own words. He said that every hospital finished the year with a clean slate and within its allocation. The only additional funding provided was the $30m. The minister should account for the difference or he will be branded a liar. That is the only way he can be judged if that happens.

The minister was happy to stand up in question time today and trumpet the fact that the number of patients on waiting lists had reduced. The minister knows, as does every other member, that the waiting lists have been "cleansed". People are written to and given a very short period within which to respond. Their name is taken off the list if they do not respond within that time frame. What is happening to the people who require surgery urgently? There has been a growth in the number of urgent patients not being seen within a month. The waiting list for those urgent cases is growing and the amount of time they are waiting is growing. The number of semi-urgent cases is also blowing out. About 5 500 people have been waiting for more than a year for their surgery. The minister should not take any comfort from the fact that he has cleansed the lists to cause a drop in the numbers for this month, last month and the previous month. Hidden in those figures are great problems. The minister may be content to have 16 000 Western Australians on the waiting list for surgery in this State, but we on this side of the House are not.

Mr Day: I did not say that. I said we are doing something about it, not just whingeing.

Mr McGINTY: We have seen this minister deceiving the people as he deceived this Parliament prior to the last election. He said that this Government would halve the number on the waiting lists. What has happened since the last election? The number of people waiting has gone up by 60 per cent - from 12 000 to a peak of 17 000 - and it is now 16 000.

Mr Day: It is 14 934.

Mr McGINTY: That is nothing of which to be proud. The minister also promised that the time spent on waiting lists would be reduced. Why do we have 5 500 people waiting longer than is clinically desirable for their condition? That is an absolute failure. The minister should not take too much joy from a drop in the numbers. He has failed the people in this very important area.

Because of the extent of overexpenditure in the first quarter of this year we are looking at overexpenditure of $656m in the Health Department. Where will the minister find that money? I was bitterly disappointed that the minister was not man enough to stand in this place and say that the Government has financial troubles. He was not honest with the House or the people.

Mr Day interjected.

Mr McGINTY: I know what the minister will do, because I know how mean spirited he is. This Government will start cutting. The Government will be denying people access to health care; it will be cutting waiting lists; it will be limiting funding available for elective surgery; and it will make our public hospital system one where the wheels have simply fallen off. It has been under enormous pressure since the Government came to power, and this will see the wheels simply fall off. Will the minister tell me where he will find the money to meet the extent of this overexpenditure by the hospitals in the first three months of this year and what he will do? The people of this State want to know what they can expect from their public hospital system this year. They are not interested in the minister standing up at question time and giving glib answers about how the waiting list came down a bit, but that the numbers of people who are in real need are increasing on the waiting list. Dire consequences await people who need our public hospital system as a result of the minister not managing properly the money the hospitals have been given, and giving them too little money in any event. We will see cuts, and our public hospital system will not be operating properly. I want the minister to explain those matters in detail to the House.

I appreciated the comments that you made, Mr Speaker, in allowing the matter of public importance to proceed, dealing firstly with the lack of confidence in the minister, and, secondly, with the other information that the minister has a duty to provide to this House. However, let it not be thought that the deliberate misleading of the House in which this minister has

engaged is confined to trying to cover up the extent of last year's deficit. We saw another example in this place yesterday where the minister deliberately misled the House again over a question of hospital funding. Let me remind members - I am sure this is fresh in everyone's mind - that the question was posed about Bunbury Regional Hospital overshooting its budget. The minister confirmed that the Bunbury Regional Hospital had overshot its budget, and the Government was looking at a rescue package for that hospital.

Mr Day: We are only three months into the year. How can the hospital overshoot its budget when it has another nine months to go?

Mr McGINTY: If that is the best the minister can do, it is pathetic. The minister confirmed that the Bunbury Regional Hospital had overshot its budget.

Mr Day: I did not say that. The member is completely misrepresenting what I said.

Mr Osborne: Three months into the year, the member cannot say that.

Mr Day: I will tell the House what I said. I said there was a forecast which indicated that if it kept going at the current rate, it could be over its budget.

Dr Gallop: I think they are overspending. Does the minister agree?

Mr Day: What does the Leader of the Opposition want to do? Does he want to chuck patients out of Bunbury hospital? Is that what he is proposing?

Mr McGINTY: There is a problem at Bunbury. We know that. What the minister went on to say was that no other country health service had exceeded its budget allocation. I ask the minister why he told the exact opposite to the upper House last week. The minister was asked about financial and budgetary difficulties affecting country hospitals. Because we know the extent of the financial problems affecting the health system, we know that a large number of country hospitals are in financial difficulties. If they continue their current expenditure patterns, they will exceed their budgetary allocation at the end of the year. In other words, they are overshooting their budget now. The Opposition knows that and the Government knows that. Therefore, why did the minister stand in this House yesterday and deny that any other country hospital was having budgetary difficulties? Why did the minister do that when he said the opposite to the upper House last week? That was a lie.

Mr Day: I did not say they were necessarily having budgetary difficulties. I said that they had not exceeded their allocations.

Mr McGINTY: Dealing with the Manjimup-Warren District Hospital, on 12 November in the Legislative Council this question was asked of the Leader of the House representing the Minister for Health -

> Can the minister confirm that current levels of spending indicate that the hospital will go over budget this financial year?

The answer was -

> Funding of a further $200 000 is currently being negotiated with the Health Department and is expected to be available in the near future.

Why did the minister try to cover up the fact that the Manjimup hospital was in financial trouble and was going to overshoot its budget?

Mr Day: I said it was not over its allocated allowance.

Mr McGINTY: That is because the minister did not give the hospital enough money three months ago when the financial year started. The Geraldton Health Service might be of some interest. In the Legislative Council the Leader of the House representing the Minister for Health was asked whether it was true that the Geraldton hospital accounts had revealed a significant funding shortfall in the hospital's budget. The answer from the minister was, "Yes". Therefore, there is a significant shortfall in the Geraldton hospital's budget, and the Government is currently negotiating with the Geraldton hospital to provide additional funding because it did not provide enough money initially. We know that is true of a whole range of hospitals. Why did the minister lie about it? There was no mileage in his doing that. Ultimately he will be caught out in not telling the truth. The minister is a real smart alec, because what he said was that, after one quarter, no hospital had yet spent its entire year's allocation. The minister knows that was not the question that was put to him. The minister set out to deceive and mislead. To that extent, the minister should be ashamed of himself. If the minister is dinkum, he will stand in this place and tell us today. Because the hospitals report to him on a monthly basis, he knows all of the figures. He was not telling the truth yesterday when he said that he did not have a figure for Bunbury hospital. The minister knows damned well what the figure is, because the hospitals provide him with a financial report every month. The minister knows what it is. He was not telling the truth there again.

In this debate today we are dealing with the most serious of motions; that is, a want of confidence motion in the minister.

The minister has lied, covered up and not told the truth about these very important matters, and here is a chance for him to set the record straight and to explain all of these matters. The minister has been found wanting in his explanations so far. Here is his opportunity to explain these matters today. He can tell us what were the allocations and expenditures last year for each of the hospitals. He can tell us what are the allocations this year, as well as which hospitals have reported to him after the end of the first quarter that if their expenditure continues at the current rate, they will overshoot their budget. There are many of them. I expect the minister to do that during the course of this motion.

As I have said, a motion of no confidence is the most serious motion that can be moved. It is not something done lightly. The minister cannot get away with not telling the truth. His integrity is at stake in this debate. If the minister merely wants to do some snow job and not reveal all the facts, he will be damned forever, because no-one will have any respect for him. The minister is teetering on the brink right now. If he has any sense of the importance of parliamentary integrity, or his own role, he will properly explain these matters.

MR DAY (Darling Range - Minister for Health) [3.07 pm]: The one thing with which I agree is that the member for Fremantle has moved a motion of no confidence in me. I think it is the second one that the Opposition has moved since I have been Minister for Health. I do not think the Opposition rates the value of these motions very highly, and it certainly debases its own argument. The member has stated clearly that I have deliberately misled this House. I totally reject that suggestion. I have never deliberately misled this House at all. For that matter, I have never unknowingly misled this House.

Mrs Roberts: The minister did last year over the firemen. He had to come back and apologise.

Mr DAY: If ever I have, I have taken the earliest possible opportunity to rectify the situation. Therefore, it is an absolute beat-up from the Opposition, and one that has no credibility in the eyes of the majority of members of this House or the public of Western Australia. I provide to this House all of the information on the financial situation of the various health services that fall within the health system in Western Australia. They are not directly under the Health Department, as the member for Fremantle seems to believe; they are autonomous organisations. However, the Health Department has a substantial role to play in gathering the information and coordinating what is going on, and I agree that they come under my ministerial responsibility. All of the information that I provide to this House is based on the figures provided to me by the Health Department. Members can believe it or not, I do not keep a personal tally of all of the funds that are being spent in every health service or every hospital around Western Australia. If the Opposition is seriously suggesting that I should be involved in that type of direct, hands-on exercise, I am glad that the member for Fremantle is not the Minister for Health, because those health services would certainly be in a mess if he were.

Many of the issues which have been raised by the member for Fremantle precede my appointment as Minister for Health, but I take responsibility for them as the current minister. He seems to be complaining that on the one hand the health system and health services require more funds to be injected into them. That may be an understandable argument. However, on the other hand, when it is done, he complains that the Government is over-allocating or not explaining from where the funds are coming. The member for Fremantle has a fixation about $97m that was supposedly the shortfall of the Health budget at the end of the past financial year. It is interesting that he seems to concentrate on the past financial year because most of his motion refers to the 1998 budget allocations and he spent very little time talking about that. I will come back to those. I recall that at the end of the past financial year there was a need for additional funds of approximately $29m to be allocated to the Health budget, which was made available by Treasury.

Mr McGinty interjected.

Mr DAY: As I said, from my recollection, that was the situation at the end of the past financial year, but I do not have those detailed figures in front of me because most of this motion refers to the current financial year. I will be happy to have a look and reconcile the issues which the member for Fremantle has raised with the information that has been provided previously.

Mr McGinty interjected.

Mr DAY: I can assure the member for Fremantle that I have no lack of confidence in the figures that have been provided either by me or by the previous Minister for Health. If he wants to manipulate the various figures to suit him, that is his business and he can explain it. I am not interested in getting involved in that sort of exercise. The information which I have provided has been based on clear information provided to me by the Health Department, which no doubt fits in with Treasury advice to it.

Dr Gallop: It does not. That is the point of the motion.

Mr McGinty interjected.

Mr DAY: I have not deliberately misled the House in any way. Obviously I will need to look again at those figures.

Points of Order

Mr McGINTY: The minister seems to be suggesting he is not prepared for this debate. It is a motion of no confidence in his custodianship of this portfolio. I wonder whether in those circumstances - perhaps this is as much a question for the

Leader of the House as it is for you, Mr Deputy Speaker - whether a brief suspension is appropriate to enable the minister to get his facts together to answer the most serious allegation that can be made against him. It is not satisfactory for the minister, when dealing with a motion of no confidence in him, to say that he cannot answer the allegations against him. The only course open is for this matter to be adjourned and for us to resume when the minister is ready.

Mr BARNETT: Despite the very generous offer by the member for Fremantle, the Government does not seek an adjournment of this debate and it urges the member to simply get on with it.

The DEPUTY SPEAKER: That was not a point of order. It was certainly a point of view. It is something with which I do not agree. The debate can continue.

Debate Resumed

Mr DAY: I am not saying, as the member for Fremantle suggests, that I am not prepared for this debate. If the Opposition has a figure in mind of $97m, and I believe the figure is about $29m, I will certainly follow that through and reconcile the issues. It misses the essential point in any case. The Opposition should be rejoicing if an additional amount of $97m has been injected into the health system in Western Australia in the past financial year, instead of $29m. Members of the Opposition spend much time whingeing about how this Government is running down the public health system in Western Australia, which is patently untrue, and which will be refuted very strongly by some of my colleagues based on what is happening in their local areas. I could spend many hours talking about what is being done throughout Western Australia in upgrading the public health system through the various hospital upgrades, new hospitals being built, and the new services being provided such as in Armadale or the Swan District Hospital. The Opposition is whingeing about what the Government is doing. When additional funding is made available so that patients can receive treatment in public hospitals, whether it be as non-elective patients or elective patients, or whether it be for all of the ancillary services or whatever, the Opposition complains and moves a motion of no confidence. It has absolutely no credibility. The point of the matter is that if additional funds are needed to ensure that we have a top quality, world class public health system in Western Australia, this Government will make them available. It is possible that additional funds will be made available in this financial year if the current allocation of funds is not sufficient to meet demand and pressure is put on the public health system in Western Australia. Even the member for Fremantle would have some understanding that Western Australia has an ageing population. People are living longer than they have in the past. That is obviously very welcome, but it means that people are more likely to need more medical treatment than they did in the past. That imposes substantial pressures on the system and, in the end, it translates to the need for more funding to be made available. Increased medical technologies and procedures are being made available to treat patients; the sorts of treatments that can be very expensive and impose pressure on the public health system as well, and, as with an ageing population, that translates to the need for additional funding to be made available. As I said, if during this financial year some of those pressures flow through and there is need for additional funding to ensure that the people of Western Australia can have confidence in the system and receive treatment when they need it, this Government will certainly make that funding available.

A problem which has been occurring over the past 15 years is that fewer and fewer people are covered by private health insurance. They therefore become dependent on the public health system, which has led to a requirement for even more funds to be made available, which has been met by this Government. In the 1998-99 budget, an additional $19m was allocated by this Government to ensure that the services are available and to ensure that health professionals, members of the nursing profession, enrolled nurses and others are able to be paid the salary increases which they have been awarded.

This Government has in no way been neglecting the public health system in this State. A great deal of time and effort has been put into planning the needs around the State to ensure we can locate and provide services closer to where people live, such as the Swan District Hospital - to refer to the interjection from the member for Midland during question time - Armadale-Kelmscott Health Service, Mandurah District Hospital, Bunbury Regional Hospital, Broome District Hospital, Kalgoorlie Regional Hospital, Albany Regional Hospital or whatever the case may be. The member for Fremantle is making a big song and dance about the fact that it is three or four months into this financial year, and he is extrapolating from what he considers is the current situation a possible budget blow-out of $600m. He suggested that the Health budget would be in excess of its allocation at the end of this financial year. What serious financial or economic commentator or manager would draw a conclusion about what will be the case as at 30 June next year, based on what has happened so far in the first quarter?

Mr McGinty: Your own Treasury has done that. That is the simple answer to your question.

Mr DAY: The member's feigned indignation is winning no-one over, so I suggest he keeps quiet for a while.

Mr Kobelke interjected.

The DEPUTY SPEAKER: Order! I ask that members allow the minister to make his speech.

Mr DAY: What serious financial commentator would draw a conclusion about what will be the case at the end of June next year based on what has happened for the first three months of the current financial year?

Dr Gallop: We will and we have done it in the past, and we have been right. There is constant pressure on the health system. It cuts staff, costs and corners, and the people of Western Australia suffer. That is what happens.

The DEPUTY SPEAKER: Order!

Mr DAY: Is the Leader of the Opposition suggesting that when this Government allocates more money to ensure that patients can get treated in public hospitals and elsewhere, it is wrong - is that the implication of what he is saying?

Dr Gallop: Demand is relative to supply. It is not only about money, it must be relative to demand.

Mr DAY: The supply has been increasing substantially and consistently under this Government. When it is increased, the Opposition whinges about it by complaining that a few figures are slightly out, or whatever the case may be. The Opposition must understand that aberrations and seasonal variances occur -

A member interjected.

Mr DAY: I will explain it if the member keeps quiet for a moment. Seasonal variances occur in the expenditure of funds and the demand on the health system, particularly in the first three months of the financial year. What needs to be understood is that a winter epidemic of illnesses such as influenza and other respiratory diseases and various other conditions are more likely to put people into hospitals in the winter periods of the financial year.

Mr McGinty: That is not true. There are fewer this year than in previous years.

Mr DAY: I am telling the member that it is more likely that patients will need to be admitted to hospital and receive treatment in hospital, therefore imposing a cost on the system and drawing more funds out of the system, in the winter months than in the warmer months of the calender year.

Mr McGinty interjected.

The DEPUTY SPEAKER: Order, members!

Mr DAY: If the member for Fremantle wants to set himself up as a medical expert, he should do so, but I will operate on the basis of the professional advice that I am given.

Mr McGinty interjected.

The DEPUTY SPEAKER: I ask members to allow the minister to make his speech.

Mr DAY: I am also advised that accounting practices have changed and that health services may draw funds in advance to cover imminent pay periods. That can lead to a situation whereby the amount of expenditure within a certain period appears to be more than actually applies to that strict calendar period.

Mr McGinty: That is done three-monthly, and after some months that would even out.

Mr DAY: I am basing my comments on the information provided to me by professional financial managers and clinicians who are involved in the health system. I do not set myself up to be an expert in all these things, unlike the member for Fremantle. All these factors need to be taken into account.

It is also not uncommon, if health services in Western Australia believe they will have a budget overrun after three months, or so, of operation, for the Health Department to assess the situation to find out whether there will be a shortfall at the end of the financial year, whether real problems exist which need to be rectified, and whether some modifications should be made to their accounting procedures or clinical practices, or whatever the case may be.

Mr McGinty: Which hospitals fit into that category?

Mr DAY: That process is not uncommon in health services in this State, and, no doubt, elsewhere. I am advised that in all cases where health services have reported a projected shortfall, bearing in mind that these shortfalls are normally reported early in the financial year, people from the Health Department analyse the situation and make recommendations about how to manage that situation; or if a genuine need exists for additional funds to be allocated, those funds are allocated. The Opposition should not whinge and whine about that, but should congratulate the Government for making the funds available -

Mr Kobelke: Don't be stupid! You mismanaged it.

Mr DAY: The member for Nollamara is complaining about the fact that we are making the money available -

Mr Kobelke: Total mismanagement!

Mr DAY: The member for Nollamara is implying that we should refuse to admit to public hospitals patients who need treatment.

Mr Kobelke interjected.

The DEPUTY SPEAKER: I formally call the member for Nollamara to order for the first time.

Mr DAY: I could talk for a long time about the very positive things that are being done in the health system in this State. I referred in question time to the fact that the number of people on the waiting list has been reduced substantially as a result of the increased number of procedures being performed. A substantial program is well underway to enable people who are waiting for a joint replacement or cataract removal to have that procedure undertaken sooner than would otherwise be the case. If the member for Fremantle had a genuine interest, I suggest he contact a few hospitals to find out what is happening. He may want to visit the day surgery centre at Sir Charles Gairdner Hospital, which was opened in June, to see the large increase in throughput which is occurring. He may want to get some information about the increased hours of the operating theatre at that hospital, which has effectively moved to three sessions rather than two.

The Opposition asked for information about the allocations for 1998-99 to the various health services. I seek leave to have incorporated in *Hansard* the allocations for 1998-99, in comparison with the allocations for 1997-98.

[The material in appendix A was incorporated by leave of the House.]

[See page 3754.]

Mr DAY: I reject the suggestion by the Opposition that I have deliberately misled this House. The Opposition is engaging in nothing more than a smear campaign. This is the second motion of no confidence that the Opposition has moved against me as Minister for Health. It is not for me to speak about my role as Minister for Health, but I am very satisfied with the changes that are being made to manage the health system better and to increase the amount of surgery that is made available to the people of Western Australia.

MR MARSHALL (Dawesville - Parliamentary Secretary) [3.28 pm]: I find it amazing that the Opposition would move this motion of no confidence in the Minister for Health. This morning as I was driving from Mandurah to Perth, I listened to the minister being interviewed by Verity James on talkback radio. He talked about the Health Amendment Bill with regard to smoking. He then took questions from all over Western Australia. When I came to Perth, I made a note to tell the minister - I have not had a chance to see him yet - that that was the best performance I have heard from any minister since I have been in government. I travel a lot in my car, and I have listened to the Premier, the Leader of the Opposition and shadow ministers, but after listening to the Minister for Health today -

Dr Gallop: How does he compare with the Leader of the Opposition?

Mr MARSHALL: Last night I attended a function, at which someone talked about the nicknames that are used in this Parliament and asked me, "The Speaker is called the principal, one member is called the coach, and another member is called the boss, but who in the Opposition is called fig jam?" I said that I could put about four opposition members in that category. However, I did not include the Leader of the Opposition in that, so he should be careful!

I return to the situation of confidence in the minister. As soon as a minister starts doing any good, particularly a new minister, the Opposition engages in dirty tactics and seeks to degrade that minister. That is all it is - dirty tactics. If we want to talk about lack of confidence with regard to this sensitive health issue, lack of confidence in Labor was shown in the last two elections in the electorates of Mandurah and Dawesville, because at one stage I was told that the proposed new hospital in Mandurah would cost us the election; but the electorate was so confident about our handing of health issues that we won handsomely, and I hope that can happen again. We promised to get rid of the 30-bed dolls house that the previous Government had taken 10 years to establish, when it did not have the vision to look past its nose and see that the population of the Peel region would increase from 15 000 to 80 000 in five years, and gave the people of my area the poorest health system in the region. By sheer confidence, rather than lack of confidence and negative attitudes towards this Liberal Government's approach to their health issues, they elected a new Liberal member of Parliament and the other Liberal member gained votes. That new hospital has been operable for only eight weeks and will be opened officially this weekend. The number of beds has increased from 30 to 130. That is a fantastic success. I grant that it cost $42m, but who cares whether it was allocated in the budget in the light of the services it is now providing and the way in which it is catching up with the patient backlog and health deficiencies the coalition inherited six years ago?

It took 16 months to build the hospital and it was completed five months ahead of schedule. Its construction provided many of the local contractors with jobs. Five renal dialysis machines are now working six days a week. More than 30 of the patients had to travel to and from Fremantle Hospital previously and 15 hours of their week was spent travelling while they were unwell. Since the establishment of the new hospital, they are on top of the world; they have a life again. The hospital now has an oncology service for the treatment of cancer with the latest theatre equipment, a rehabilitation centre and a palliative care unit. More important, orthopaedic and pediatric specialisation units are now provided.

Members opposite can talk about money being spent. I am told that more specialists are using Bunbury Regional Hospital since it was built because specialists own homes in Margaret River, and, working on Fridays and Mondays, they can provide

people in the country with specialised services that were not previously available. During the past eight weeks, an orthopaedic surgeon rang me and asked how he could get into the Mandurah hospital to reduce his backlog. I asked whether he owned a place on the canals to which he replied that he owned a farm at Harvey. He will work on Fridays and Saturday mornings. He has a backlog of 300 hip and knee operations to perform, of which 150 are in the Rockingham-Peel region. If he can start in Mandurah, he will knock off that backlog in a year. He has started with minor orthopaedic surgery and mentioned that the operating theatre in Mandurah is one of the best in which he has ever worked. When members opposite ask where the money is going, I would like to see them with a crook knee or hip and desperately wanting to get into hospital for orthopaedic surgery. They would not care whether the budget had been overspent. Mr Mike Anderson will start his first major orthopaedic operation at the end of the month.

The importance of that hospital to Mandurah, which opened eight weeks ago, is demonstrated by the fact that it took 55 patients immediately. Over the past eight weeks it has averaged 70 public patient beds and six private patients a week. The Leader of the Opposition referred to the staff at the hospital. The staff has increased from 70 FTEs to 152, in addition to 97 casuals. That is phenomenal for employment in the area. The private contractor, Health Solutions, is doing a marvellous job in administration. Every week people write to the local newspaper praising this Government for giving them a hospital of which they are proud. If that is an indication of no confidence, how do we get confidence? All we hear is negativity. I have been told that some of the principles to which members opposite work are to stay loyal, stay ordinary and ask no questions. We could not have anything more negative than that. That is no confidence.

The people in my electorate are extremely proud of the new hospital. Forty-six per cent of them in the Mandurah area are aged 56 years and over. They need a decent hospital and are very confident in not only this Government but also what the new minister is doing for us.

DR GALLOP (Victoria Park - Leader of the Opposition) [3.34 pm]: This is the way our hospital system has been run in Western Australia for the past five years: The State Government makes an allocation to hospitals at the beginning of the year which is always insufficient relative to the demands placed on the hospital system. By the second half of every year a crisis arises in the hospitals. They cut corners and cut staff and try to find money from other places to meet the demands being placed on them which are always greater than the budget allocations. At the end of each five years, the Government has had to find money to patch up the system in disarray. Is that a way to run the hospital system of Western Australia?

During the first half of the year, they have sufficient funds from the budget allocation to progress, but by the second half of the year it is obvious that the overall yearly allocation is insufficient and they are in crisis mode. That is how our hospital system in Western Australia has been run for the past five years. The motion of the member for Fremantle points that out and also points out that this minister has deliberately misrepresented to this Parliament and the community the way the hospital system is being run. For five years the Opposition has been raising the matter of mismanagement and what it means for the way our hospital system must be run by people working in them, particularly in the second half of every financial year.

However, what do we hear from the Government? Rather than an honest statement about the way the system is running, we hear misrepresentations and misleading statements about events. We heard another one today from the Minister for Health on this issue. The allocation to the Bunbury Regional Hospital is clearly insufficient relative to the demands placed on it. As we project for this financial year, the advice that is being given to this minister clearly shows extra money must be found if those demands are to be met. Three things will happen in Bunbury for the rest of this year: First, the staff will be looking for ways to cut back on costs to meet the demands; second, the Government will try to find money from here, there and everywhere to patch up the situation; third, as has happened every year for the past five years, Ministers for Health will deliberately mislead this Parliament and the people about that crisis. This minister is no different from the one before him, the member for Albany, who was no different from the member for Riverton, who preceded him and who was no different from Hon Peter Foss who preceded him. They deliberately mislead about mismanagement which costs service delivery to the people of Western Australia.

MR OSBORNE (Bunbury) [3.37 pm]: I reject the comments of the Leader of the Opposition and the member for Fremantle. The Minister for Health came to Bunbury last Friday. Members opposite talk about the Bunbury Health Service, but, frankly, if I were them I would not turn up at the opening of our hospital next year. I would be ashamed to show my face in Bunbury on 1 March 1999 because they damned that hospital from the moment it was conceived. They did everything they could to stand on the hose and block the achievement of a marvellous health facility in Bunbury for the people of the south west region.

Dr Gallop: You are adding to the misleading statements.

Mr OSBORNE: The Leader of the Opposition has had his say. The minister saw a marvellous facility, which is a great improvement on what was proposed by the previous Labor Government.

Mr McGinty interjected.

Mr Osborne: The member for Fremantle said that before and he was wrong. What they see down there -

Dr Gallop interjected.

Withdrawal of Remark

The DEPUTY SPEAKER: Order! The Leader of the Opposition cannot say that the member for Bunbury is misleading the House deliberately, because the member for Bunbury is not the subject of the motion.

Dr GALLOP: I withdraw.

Debate Resumed

Mr OSBORNE: Bunbury has a 118-bed public hospital, an 80-bed private hospital, a medical centre, operating theatres, a 15-bed mental health unit and an Aboriginal health service. They are just the facilities. A vast range of new services, like those in Mandurah, will shortly be available to the people of the south west region. They were not put in place by members opposite when they were in government. As has been said many times, they were the people who promised and we are the people who deliver. I say again, if I were the member for Fremantle, I would be ashamed to show my face at the opening of that hospital when it is opened in March 1999. I know that the member for Fremantle will be there, but if he had a sense of propriety, he would be ashamed to be there.

The member for Fremantle talks about the budget in Bunbury. The table has been presented by the minister. The budget in Bunbury has pressures - it always has had pressures - and it is facile for the member for Fremantle, three months into a financial year, to say that he will take a snapshot at a certain point and do a straight-line extrapolation.

Dr Gallop: We have done it for the past five years.

Mr OSBORNE: The Opposition has been wrong every time. It has been right only to the extent that it has been able to say that at a certain time it appears that the budget might go over. The Opposition does not understand that budgets are dynamic; they are subject to change. The minister clearly explained that if it appears that a budget will blow out, one of several things can be done.

Dr Gallop: You cut costs.

Mr OSBORNE: No, we do not cut costs. We have never cut costs. As the minister said, we can scrutinise operations and determine whether efficiencies can be achieved or whether there are real pressures. Of course there are real pressures. There are pressures across the whole health system. The minister mentioned them. They include an ageing population, expensive procedures, and seasonal pressures such as the effect of winter illnesses. All those things put a hospital budget under pressure at a certain time. When it appears that a budget might be under pressure, the first thing to do is to scrutinise the operation and ask why it is so and what can be done about it. On all occasions that has happened the Government has supplemented the budget of a hospital such as Bunbury Regional Hospital, and the following year increased the budget. The minister has tabled the information and I hope that opposition members read it because it will be instructive. In 1997-98 there was a $21m budget for Bunbury Regional Hospital. The following year it was $25m. That is a 19 per cent increase. It is all very well to say that it looks as though there will be a blow-out. The history of the Government's performance is that it knows that blow-outs happen from time to time. We are ready to cope with it.

Dr Gallop: It has happened every year for the past five years.

Mr OSBORNE: So it happens every year. We can adjust and we have adjusted in the past. We have increased the budget every time. Opposition members know that the net result is that health services in Bunbury and the south west have never reached the parlous state that they reached under their mob. When the new hospital is opened in 1999, the quality of health service in Bunbury and the south west will be far and away a generation ahead of what the Labor Government was able to provide for the people of Bunbury and the south west.

I reject totally this facile, ridiculous and superficial motion. The member for Fremantle does not know what it is all about. That is why he will stay on that side of the House for the foreseeable future. He cannot land a punch on this matter. He moves ridiculous motions and all that he does is make blather and froth but it has no impact because, as in Mandurah, the people of Bunbury do not listen to what he says; they never have and they never will.

Question put and a division taken with the following result -

Ayes (18)

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

Noes (28)

Mr Ainsworth	Mr Court	Mr Kierath	Mr Pendal
Mr Baker	Mr Day	Mr MacLean	Mr Shave
Mr Barnett	Mrs Edwardes	Mr Marshall	Mr Trenorden
Mr Barron-Sullivan	Dr Hames	Mr Masters	Mr Tubby
Mr Board	Mrs Hodson-Thomas	Mr McNee	Dr Turnbull
Mr Bradshaw	Mrs Holmes	Mr Minson	Mr Wiese
Dr Constable	Mr Johnson	Mr Omodei	Mr Osborne *(Teller)*

Pair

Ms McHale	Mr Cowan

Question thus negatived.

GOVERNMENT RAILWAYS (ACCESS) BILL

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

Clause 12: Review of Code -

Progress was reported after the clause had been partly considered.

Ms MacTIERNAN: It was bizarre that the other place extended the period between reviews from three to five years. Frankly, I do not think that it is warranted, but I will not make a meal out of it. The Government's original proposal was three years.

Mr Omodei: Do you want us to tell them to change it back?

Ms MacTIERNAN: Frankly, having read the debate I do not think that members in the other place knew what they were doing. Given the nature of the arrangement, it is good that it be reviewed every three years. That is a more appropriate length of time. That was what the Government had originally contemplated, and I support that. I am sure if they were conscious of it, my colleagues in the upper House would also support it.

Mr OMODEI: I thank the member for her remarks. The Legislative Council changed it from three years to five years based on the recommendation of the Standing Committee on Constitutional Affairs. The members of the committee were Hon Murray Nixon, Hon Ray Halligan and Hon Tom Helm. They considered the requirement that the code be reviewed every three years to be extremely onerous and that the clause should be amended to require it to be reviewed every five years after the initial three-year review. The change from three to five years was proposed by the Minister for Transport and it should be noted that neither the Minister for Transport nor the department has a preference for one over the other. The Opposition needs a consistent stance. We should leave it as the upper House has decreed.

Clause put and passed.

Clause 13: Definition -

Ms MacTIERNAN: My proposed amendments to clauses 13, 14 and subsequent clauses within part 3 all relate to setting up a separate model for a regulator. Unfortunately I am not able to move these amendments, nor was it possible to move them in the Legislative Council, because they have financial implications and no message from the Governor. We are not entitled to move such an amendment without such a message. The Opposition will oppose the existing clause without necessarily putting in place a substitute. It has great difficulty given the limitations of the standing orders.

It is entirely inappropriate that the Director General of Transport be a regulator. The director general is a public servant and in respect of all his other duties he is answerable to the Minister for Transport. To think that including a one-line clause saying that in the discharge of these functions he will not be subject to the direction of the minister provides any independence is to believe in pixie land. This model of a regulator fails the test set by the National Competition Council. The informal advice the Opposition has received is that this will be a major impediment to the access regime being accepted and signed off by the NCC. As members on this side have said previously, we are not sure that the Government will be very upset about that because we are not sure about its bona fides in wanting this to happen.

The amendment which I have proposed but which I am unable to move is modelled on that put forward by the Minister for Energy in respect of the gas access legislation. That would see the setting up of an independent officer, not necessarily full time, to deal with this issue. I recognise there are difficulties if we are to have a plethora of these officers - the gas regulator,

the rail regulator and presumably as the Government goes more and more down the line of privatisation we will have more regulators.

Given the Government's adoption of the National Competition Policy, it is time that we set up a mechanism that has been set up in virtually every other State; that is, an independent office of regulator. It goes by various names in different States. In Queensland it is call the Independent Pricing and Regulation Tribunal; in Victoria it is the Office of the Regulator General; and South Australia has the South Australian Independent Pricing and Access Regulator. The four other mainland States of comparable size have set up an independent regulator who can take on all these functions. Because we have not done that we are stuck with these very inadequate mechanisms; that is, being confined to using a public servant when we should be using someone who stands apart from the administrative responsibility of the Government.

I will be interested to hear from the minister about why we have not followed the Queensland, Victorian, South Australian and New South Wales models in setting up such a body to take on the job, whether it be in respect of gas or rail.

Mr OMODEI: The member is talking about opposing the clause and then introducing a new clause.

Ms MacTiernan: We cannot introduce a new clause because of the standing orders. Because it involves money, it would require a message from the Governor. I have never heard this before, but we cannot do it.

The CHAIRMAN: Because the clause would allocate money, a message is required from the Governor approving that allocation.

Ms MacTiernan: I understand that.

Mr OMODEI: The member is opposing the regulator's being the Director General of Transport, who reports to the Minister for Transport anyway. She would prefer to have a system similar to the arrangement under the gas access legislation. That regulator reports to the Minister for Energy. What is the difference?

Ms MacTiernan: He is not a public servant in that any of his jobs are subject to the direction of the minister. In part of his job this person is subject to ministerial direction and you are giving him a job which is not subject to that direction. That is a not a model of independence. The member for Cockburn can explain this, but I understand the gas regulator is not subject to the direction of the minister.

Mr Thomas: He is specifically precluded.

Mr OMODEI: That is incorrect. Section 56 of the Gas Pipelines Access (Western Australia) Bill provides that the minister may give directions in writing to the regulator to the extent allowed under subsection (3) and the regulator is to give effect to any such direction.

Mr Thomas: The scope for giving them is limited. It must be in writing and above board. It is not like the regulator's dropping in on Monday morning having a cup of tea and discussing a few issues.

Mr OMODEI: I cannot see the difference. The member for Cockburn referred to the role of the regulator under the definitions and it was canvassed in the second reading debate. The Minister for Transport is prepared to set up a regulator at some time in the future. If that occurs then this responsibility will be part of that.

Ms MacTiernan: Let us take a whole-of-government approach. You are a member of Cabinet. Why has your Government not moved in the direction that every other mainland State has moved?

Mr OMODEI: That is a good question and I will raise it with the minister.

Mr THOMAS: I will suggest an answer. It is because the Government is not serious about third-party access and competitive markets. We have seen in the gas industry the option of having the Australian Competition and Consumer Commission as the regulator. We put that before the Government, as is the case in other jurisdictions where there is a clear, competitive market and where there is no question about the regulator being at arm's length from the minister. When the minister responded to the amendments which I moved in this matter a month or two ago - as we speak they are being considered by the Legislative Council - he said that he wanted a regulator that had regard for the special circumstances of Western Australia. They included matters over which the minister could have some influence, although there were some safeguards about instructions concerning the regulations being in writing and so on. We are concerned about those special circumstances being included because in Western Australia they led to the construction of the goldfields gas pipeline which has given the most expensive gas transmission charges in the world.

Here we have something that is even worse than that. It would be like making Les Farrant or Des Kelly or someone like that the regulator. Their primary role is to administer a government department at the direction of the minister, to be answerable, with one of the major concerns being the financial health of Westrail. If we are serious about having a competitive market for rail in which people will be encouraged to invest money in rail transport - I want that to happen - we will have to give some guarantees. People who invest a substantial amount of money to get into the rail transport business - I suspect it is a

very expensive business to get into - must be satisfied that there is a fair, level playing field with the competitors, one of whom will be Westrail; that is, if there are differences with one of those competitors or even someone else in the industry, they can go to the regulator and obtain a fair hearing from someone who is independent and impartial. We are talking about big sums of money. We are not talking about going into the trucking business, but about the involvement of huge amounts of capital. Surely we should assure these operators that they have an opportunity to get a fair hearing. I suspect that they will not have that confidence when they know the regulator, to whom they can take matters of concern or any differences they may have is the head of the Department of Transport, answers to the minister and probably has a meeting with him every Monday morning to go through very important matters. The minister is also responsible for, amongst other things, the financial health of Westrail. This is a mickey mouse scheme.

If those opposite are concerned about a competitive market, they should ensure, firstly, that there is a code which is explicit, in writing and in the legislation. We do not have that. However, we are told we will have it some time in the future, and that is something to look forward to. Secondly, there should be provision for a regulator who is not only independent, but also seen to be independent. In that way a culture can be set up to encourage people to invest in rail transport in Western Australia, and I wish to see that.

Mr OMODEI: As usual the member for Cockburn is not quite right. In the end, the regulator's role is that of an overseer, to review the code and its effectiveness.

Mr Thomas: And to regulate.

Mr OMODEI: It is also to establish the panel of arbitrators on the recommendation of the Chairman of the Institute of Arbitrators of Australia. The only financial responsibility is for the weighted average cost of capital for ceiling price determinations and -

Ms MacTiernan: That is quite a big job.

Mr OMODEI: I am not saying it is not. It is also to maintain a register of access agreements and determinations. The regulator is not the arbitrator who will determine the access price in the absence of an agreement between Westrail and a third-party operator. As a result, the regulator will not have influence on the commercial results or a dispute over access, pricing and other factors. Most of the pricing issues will be done by the arbitrator.

Ms MacTiernan: What did you say about his determining the capital cost?

Mr OMODEI: The regulator will determine the weighted average cost of capital; in other words, the rate of return on capital.

Ms MacTiernan: Which will have, one would have thought, a significant impact on pricing policy.

Mr OMODEI: It certainly will, but the arbitrator will deliberate over any pricing -

Ms MacTiernan: Over individual ones, but what about in terms of setting the cost mechanisms?

Mr OMODEI: I am advised that the regulator would establish a ceiling which would be in a public document and subject to public scrutiny.

Ms MacTIERNAN: The member for Cockburn has contributed importantly to this debate on the regulator. The minister is now telling us that the regulator does not need to be independent. This runs contrary to the statements made by the Government elsewhere. The Minister for Energy is seeking to establish an independent office because he believes the regulator must be independent. The member for Cockburn has outlined -

Mr Omodei: All the pricing disputes etc are done under the one regulator. In this case the arbitrator does it.

Ms MacTIERNAN: There are also arbitrations with the regulator. From discussions we have had around the place, we know there is concern among not only industry users, but also with the National Competition Council. At the end of day, this policy regime must be accepted by the National Competition Council. What advice does the Government have that this standard of regulator, this semi-independent regulator, will be acceptable to the National Competition Council? From the information we have, although it is not being ruled out, the problems associated with the lack of independence of the regulator will be a major impediment to obtaining certification from the National Competition Council. What is the nature of the feedback the Government is getting on that provision from the National Competition Council?

Mr OMODEI: The member for Armadale is correct: At an officer level, the NCC has said that it is not happy with the Director General of Transport as the regulator. Discussions are taking place during the certification process to see how that can be resolved. A discussion process is happening with the NCC. If the NCC opposes that or if a compromise or a satisfactory arrangement cannot be worked out, that matter will need to be revisited.

Ms MacTIERNAN: I would hate to say that I told you so, but we have been trying to obviate that problem. The Minister

is now saying that he will go away and put up this highly questionable legislative model and come back to us when it does not work. That bears out our major thesis that the Government is not serious about getting this matter through. When we inquired about the floor and ceiling price arrangements being proposed, we were assured that they would be okay because the Government was getting indications of that at officer level. Now we are getting the other approach and are being told not to worry about it because it is only at officer level that the Government is not getting support. The Government cannot have it both ways.

Mr Omodei: The discussions are not complete.

Ms MacTIERNAN: The discussions about the pricing regime are not complete either. The Opposition believes the Government is going down the wrong path. We will be back here some time in the near future revising this legislation and, in the process, probably serving the Government's end of keeping this access regime out of action for another six months.

Mr OMODEI: The deliberations with the National Competition Council on the floor and ceiling pricing arrangements have come back at officer level indicating that it is agreeable. The NCC has already signed off on the New South Wales model which is almost identical to ours.

Ms MacTiernan: I have pointed out that you have a different regime.

Mr OMODEI: Yes, but there is a fair indication that the stake will be significant. The recommendation relating to a separate office of regulator was discussed by the standing committee. The Government is going through the matter at an officer level. We are looking at the most responsible, pragmatic and cost-effective way to establish that arrangement. If necessary, an office of regulator will be set up if this arrangement is not acceptable. The Government prefers the Director General of Transport be the regulator.

Clause put and a division taken with the following result -

Ayes (27)

Mr Ainsworth	Mr Court	Mr Kierath	Mr Shave
Mr Baker	Mr Day	Mr MacLean	Mr Trenorden
Mr Barnett	Mrs Edwardes	Mr Marshall	Mr Tubby
Mr Barron-Sullivan	Dr Hames	Mr Masters	Dr Turnbull
Mr Board	Mrs Hodson-Thomas	Mr McNee	Mr Wiese
Mr Bradshaw	Mrs Holmes	Mr Omodei	Mr Osborne *(Teller)*
Dr Constable	Mr Johnson	Mr Pendal	

Noes (18)

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

Pairs

Mr Cowan	Ms McHale

Clause thus passed.

Clauses 14 to 37 put and passed.

Clause 38: Principal Act -

Ms MacTIERNAN: I realise the minister is acting in a representative capacity but concern has been expressed by the National Rail Corporation about the delay and the Government's intention to possibly exclude National Rail from participating in intrastate rail freight in Western Australia. Could the minister confirm that part 6 must be passed to allow National Rail to carry intrastate freight and compete with Westrail? I have been approached by a number of resource operations concerned about the attempts to stymie competition from National Rail. I am pleased to note that the Government proposes that part 6 come into operation upon royal assent while the rest of the Bill will come into operation on days fixed by proclamation. Can the minister confirm whether these amendments will allow National Rail to compete with Westrail in intrastate services? When is this Bill likely to receive royal assent?

Mr OMODEI: What the member is saying is correct. Part 6 enables National Rail to participate in intrastate rail operations with the approval of the Minister for Transport. Clause 2 states -

(1) Part 6 comes into operation on the day on which this Act receives the Royal Assent.

(2) The other provisions of this Act come into operation on such a day as is, or days as are respectively, fixed by proclamation.

That is, as soon as the code is approved by the Parliament.

Ms MacTiernan: I am just talking about part 6. When is this Bill likely to receive royal assent?

Mr OMODEI: It depends on when the Minister for Transport puts the legislation forward for royal assent.

Ms MacTiernan: It is an important issue. Normally we would not make a meal out of it but given the concerns expressed by National Rail and others as to the bona fides of Westrail and allowing it to come on stream, can you give us any idea of the minister's intention regarding putting this Bill up for royal assent? Will we pass this Bill and have it sit in his top drawer for six months?

Mr OMODEI: It is dictated by when the code receives approval.

Ms MacTiernan: I am talking about part 6.

Mr OMODEI: To make the Act effective, I daresay one would need the code in place.

Ms MacTiernan: Not this aspect. Is that right?

Mr OMODEI: I am told that one needs the Bill and the code to make the regime effective. So the National Rail Corporation could negotiate to get access to the system for intrastate freight.

Ms MacTiernan: Given that we have already got Specialized Container Transport and Toll Rail, which have set up contracts with the Government in the absence of the code, once the constitutional fetter on National Rail that prevents it from operating intrastate is removed, why can it not do deals with Westrail?

Mr OMODEI: I am told it can make those agreements under section 61, as the others have done.

Ms MacTiernan: Once royal assent is given?

Mr OMODEI: National Rail can do that now.

Ms MacTiernan: No, I understand there is a constitutional limitation.

Mr OMODEI: National Rail can do that as soon as this Bill is passed.

Ms MacTiernan: I just want my understanding confirmed.

Mr OMODEI: National Rail can attempt to negotiate outside the code as soon as royal assent takes place with this legislation.

Ms MacTiernan: Will you explain proposed section 5A? Under what circumstances will the minister give National Rail approval? Is there a policy governing this?

Mr OMODEI: I am told it reflects the original National Rail agreement which is incorporated in the National Rail Corporation Agreement Act.

Ms MacTiernan: What policy will our minister adopt in determining whether he will allow National Rail to operate?

Mr OMODEI: I would have to obtain that answer from the minister.

Ms MacTiernan: Does the policy officer know?

Mr OMODEI: The advice is that they are not expecting any difficulties at all. It is really up to the minister.

Ms MacTIERNAN: I want to tease this one out a little more. I can assure you, Mr Chairman, this is not merely a hypothetical question. We have people coming to us, not only National Rail but also others, expressing concern about what they perceive to be the endeavours of Westrail to block National Rail from operating on the line. We all know, particularly from the comments of the Deputy Premier, that the reason the Government wants to flog off Westrail at the first opportunity is the big concern about cherry pickers coming in and picking off some of the cream customers. We have here a very real and live issue. Do not get me wrong: I do not have a particular brief for National Rail. However, we have a commitment to competition, and we are concerned that National Rail may be kept out of the picture by a range of mechanisms that are somewhat less than transparent. We see in this Bill, which has been before the Parliament for some months, a mechanism that says that notwithstanding that we will give National Rail the right, which it previously did not have, to compete on intrastate traffic, nevertheless we will reserve the right for the minister to say yes or no. National Rail has the right in theory, but it is subject to ministerial determination. That is an issue of some concern. I would have thought that some policy would have been developed as to how the minister was to discharge that discretion.

I do not quite understand, and I wonder if the minister, perhaps with the help of the advisers, could explain how this will operate once the code comes in. A year down the track, if we have the code in place, it seems to me National Rail will have a number of hurdles to jump. It will have to go through the normal code proceedings and meet the access requirements, but this provision stands right on top of it. It could go to the National Competition Council and do all the rest of it under the access code, but that could all come to nought because the Government could invoke the provision in 5A which stands outside the code and the access mechanism. By my reading of this provision, it would override any of the access provisions that would be guaranteed once the code was underway. Will the minister explain how this will operate in relation to National Rail?

Mr OMODEI: There is no intention to hold up the process. As soon as the agreement is received from the Western Australian Rail Advisory Council - and I have listed all of the companies and organisations that were part of the advisory council - it will be sent to the National Competition Council for its approval and then fast-tracked as soon as possible. The only reason this proposed section 5A is in the Bill is the National Rail Corporation Agreement Act. There is no intention to use that proposed section to hold up National Rail's entry as far as intrastate freight is concerned.

Ms MacTiernan: So you have no policy on how this discretion will be exercised?

Mr OMODEI: I am told there is no intention to use it as an obstacle.

Ms MacTiernan: Times move on and there are different ministers. How will this provision interface with the access regime under the code? Is it not, as it seems to me, that National Rail has to do all the things that any other third-party operator has to do but nevertheless, notwithstanding what it achieves, the minister has the power to come in over the top and say that it cannot participate?

Mr OMODEI: I understand from the advice that as soon as this legislation is through National Rail will seek permission from the minister, which will be forthcoming, and it will then proceed. I understand that National Rail is to be sold next year. As soon as the commonwealth's share is sold, the approval of the minister is no longer required under proposed section 5A.

Ms MacTiernan: I understand that. Until that point, does this operate in the way that I said; that is, that National Rail would have to go through the normal third-party access regime but nevertheless the minister could invoke this provision to override any access determination?

Mr OMODEI: I am told the provision is there because of the original National Rail Corporation Agreement Act. That is why it is in the legislation.

Ms MacTiernan: I know that is why.

Mr OMODEI: The member is concerned that the minister may override.

Ms MacTiernan: I am asking whether this is how it will operate.

Mr OMODEI: Your main concern, being a conspiracy theorist, is that the minister may stop the National Rail Corporation from becoming involved in interstate freight.

Ms MacTiernan: Obviously the original national rail legislation was drafted before we thought of the rail access.

Mr OMODEI: Yes.

Ms MacTiernan: I was merely asking your advisers to give us some clues on how these two somewhat conflicting provisions will operate in that period wherein National Rail -

Mr OMODEI: I can only repeat that it is there because of the requirement of the national rail agreement Act, but it will not be used to obstruct National Rail.

Ms MacTIERNAN: In that last set of questions I was really asking how it would interface because when we make legislation, it is important that we understand that there will be new Governments and new ministers. A minister who is overly sensitive and believes that any questioning is some sort of personal reflection is missing the point.

Mr Omodei: No. I must say that in my experience in dealing with you on legislation, there are many conspiracies, no matter whether it is a port or something else. I find it unusual that the Labor Party is promoting competition when normally it does not. Then, when it comes to government monopoly -

Ms MacTIERNAN: Let us not lie to the community and say we are having a national model when we are not. We have outlined the reason for our support; that is, we believe this is probably the best way to deliver a more vibrant and dynamic rail system. Recently we have seen the rail system decline and a great deal of the freight has gone onto the roads. For the social, environmental and economic reasons we have set out, we want to see that trend stop. Members should not get me wrong; I think government intervention should sometimes take place. For example, if National Rail wanted to pick the eyes

out of the grain freight operation, I would think there was a good argument for saying, "No, you cannot do that. We will review grain freight as an entire operation and you do the lot or you do not do any of it." I recognise the comments -

Mr Omodei: In other words, you are saying that clause should be used in cases in which somebody does come through -

Ms MacTIERNAN: I absolutely think -

Mr Omodei: What about equity and the Trade Practices Act?

Ms MacTIERNAN: Provisions are contained in the Trade Practices Act whereby one can gain an exemption if one can demonstrate that it is in the public good or to the public benefit. I refer to part 4 of the Trade Practices Act. These provisions are utilised and I have no difficulty with that. I believe we should be up-front about those sorts of things. We should make sane judgments on them, but if at the end there are certain economic and social benefits -

Mr Omodei: Do you want competition or not? It sounds like the member is arguing the opposite.

Ms MacTIERNAN: No. Currently Westrail accounts for the grain freight system as a single operational unit, although that does not appear in its annual report, which relates to the discussion we were having about transparency. Good arguments exist for that treatment of the grain freight system, because it is very important for the overall economic development of the State and for the survival of rural communities that we ensure we have a measure of cross-subsidisation between certain lines within the grain freight industry. If we allowed open competition on the big lines in which one could make mega dollars, more and more lines on the periphery of the wheatbelt would be closed down. We have already seen that happen at a price to the rest of the community, because "we must build the road." We are paying $20m to build a road from Bonnie Rock to wherever. We are no longer closing rail lines, but we have a new category of lines which are not used, and new roads must be built to complensate. There are important areas where a bigger picture needs to be taken into account and in those areas we do not want competition. Of late the activities of Westrail have been a disgrace. It has abandoned a large part of the market, so other operators who are prepared to fill those niche markets should be allowed in. They are prepared to look at new opportunities and this will be to the advantage of the broader community.

Mr OMODEI: The national rail agreement Act provides National Rail with interstate access, but prevents intrastate access. Part 6 opens up the intrastate option for National Rail and requires access approval to be given by the minister. Part 6 can be effected as soon as the Bill receives royal assent; however, National Rail must negotiate outside the code until the code is finalised and approved by the Parliament.

Ms MacTiernan: That has already been said.

Mr OMODEI: It has already been said, but that is a resume of what will happen. One day somebody will analyse the effect of Westrail concentrating on bulk rail which no doubt has an effect on the road infrastructure. One day somebody will analyse how much extra road freight has cost compared to rail freight. We had a rail system that was running at a loss and a significant debt is still attached to Westrail. Earlier the member talked about traffic and its effect on the environment, particularly in the Bridgetown area. I point out that many of the goods that come through the Bridgetown area are perishable goods. If the member looks at the value-adding that is occurring in the timber industry, she will realise it is better for industry if perishable products are placed on a semitrailer and taken directly to their destination rather than putting them on rail which involves further handling.

Ms MacTiernan: Is timber perishable?

Mr OMODEI: It can be damaged. If dry, dressed timber were taken out of the factory, put onto the ground, put onto a truck, and then put onto rail, so that it was handled three or four times at either end -

Ms MacTiernan: The technology has moved on from that. Container units can now be taken off trucks and put onto trains; and the vehicles that go onto trucks can actually become trains.

Mr OMODEI: The member will need to talk to those of her constituents who run transport operations if she wants to talk about piggyback arrangements. That may be the trend in the future. Who knows?

Ms MacTiernan: Hopefully we will get amalgamation of the Public Transport Union and the Transport Workers Union and that will not be an issue.

Mr OMODEI: Heaven forbid! When finally, in the distant future, the Labor Party returns to government, it will need to make those decisions; and I suggest that how it will subsidise some of those smaller rail links will be a matter of great community concern. There is no doubt that in the past few years, the Government has turned Westrail from a debt making operation to a profit making operation.

Ms MacTiernan: Have you looked at its debt level?

Mr OMODEI: Yes.

Ms MacTiernan: Do you know that its debt level has blown out from about $500m to $900m?

Mr OMODEI: I thought it was around $530m. I am not sure.

Ms MacTiernan: It would be very instructive for the Minister to look at the changes Westrail has made to the treatment of maintenance, because it has taken a huge wad out of its operating budget and put it into its balance sheet and has said, "Whoopee! We now have a much better operating statement", when concomitantly it has a much worse balance sheet.

Mr OMODEI: We could argue about that all day.

Clause put and passed.

Clauses 39 to 43 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Omodei (Minister for Local Government), and passed.

PLANNING LEGISLATION AMENDMENT BILL

Committee

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

Clause 1 put and passed.

Clause 2: Commencement -

Dr EDWARDS: The Opposition has a problem with this clause, because of the statements made by the minister about this Bill in the second reading speech and in the community. The minister has effectively told local government that he has introduced provisions for a new appeal right should local government authorities refuse to initiate an amendment to a town planning scheme, but he will not proclaim that part of the Act if they behave themselves. It is unacceptable to hold a sword over the head of local government by saying, "Depending on how you behave in the next year or so, and depending on how your planning peer review panel goes, I may or may not proclaim that part of the Act and bring it into law." A minister looks at the issues, consults with people, makes a decision, goes to Cabinet, brings the legislation into the Parliament, and then either implements that legislation or chooses some other mechanism to resolve the problem. I have no doubt that many planners believe we need this new appeal right, but having said that, the way the minister has tackled the problem is not the way the Opposition would tackle the problem. It is unacceptable for the minister to say, "If you do not do the right thing, I will proclaim this section, but if you do the right thing, I will not proclaim this section." For that reason, we oppose this clause.

Mr KOBELKE: I would like the minister to explain why certain parts of this Bill should come into operation by proclamation. One reason may be that regulations will be required with regard to the statutory plans which the minister will have the power to put in place in regional areas, and those regulations will take some time to prepare. Therefore, problems may arise if the Bill comes into effect immediately following its passage through the Parliament, after it has received the Governor's assent, which is the other mechanism that can be used.

We are concerned about this clause, because of the minister's statement that certain parts of the Bill may or may not be implemented, depending on how local governments are working. That clearly implies that if councils do not bend to the minister's will, he will implement those parts of the Bill and give himself those powers, which will tend to undermine the process of planning at the local government level. I remind the minister that this is not new. I have not been able to confirm the date, but I believe that in 1982, a previous conservative minister, Hon June Craig, proposed to introduce new section 25A to the Town Planning and Development Act to give the minister the power to direct local government authorities with regard to planning matters. That proposed section was never implemented, and from 1992 to 1994 it sat on the shelf and was not gazetted.

The Minister for Planning is implying that he will do the same thing with parts of this Bill. That is improper. Laws are not passed by this Parliament in order to give the minister the power to use those laws to bluff, cajole or threaten another level of government into taking some form of action. That is clearly what happened with the amendment proposed by Hon June Craig, who, for whatever reason in those days - I do not know, because I was not in the Parliament, and it was not an area which was then of close interest to me - wanted to have the power to direct local government on planning matters.

It was never gazetted or brought onto the statute books so that it could be enforced. However, many ministers - I must say

at least one Labor minister, in a fit of pique - alluded to it in discussion with councils and said it could be brought onto the statute books and implemented if the council did not bend to their will. That is not the way the laws of this State should function. It is improper for us to pass an amendment to legislation which is not intended to be implemented. If the minister feels that that provision is not needed we should remove it from the Bill. Clause 2 relating to commencement would not be a problem. However, if that is not the intention of the minister, clearly we do not wish to see a commencement clause which in this case relates to appeals give power to any minister simply to enable him to threaten local government and undermine their power.

That proposed amendment is strongly opposed by local government. I do not believe the minister has provided anywhere near sufficient case to justify its support. The Opposition is concerned that clause 2, the mechanism by which it can be implemented, should not exist. The question I leave with the minister is: Other than the section with respect to a planning appeal, on which he said he would hold back, does the amending Bill contain other clauses that require some delay before they can be gazetted? If he points to those in detail we will understand why the commencement clause must be by proclamation rather than on assent of the Governor.

Mr KIERATH: Members opposite may not like my explanation, but I tried in my second reading speech and publicly to provide those reasons. I do not know why they want me to do it again now, but I will repeat them for the record, although they are already on the record. My view was that there should not be a delay in gazettal; it should be part of the Act. The Western Australian Municipal Association felt there had not been enough time to judge the effectiveness of the special committee we established. On that basis I made an offer - WAMA has not rejected it but hopes this provision will not be passed - which it would prefer because it would like the other committee to run its full course to see whether there is any need for it.

It relates to the section on appeal rights concerning rezonings. I am not aware of any other provision in this Bill that requires delay. It was an attempt to go part of the way toward meeting the concerns of WAMA. If we are honest with ourselves this will have an effect similar to essential services legislation, which is hardly ever used. The mere presence of it causes change in people's behaviour. I believe that with a bit of luck this legislation might never have to be proclaimed. However, if a council is repeating some of the events of the past, of which we have evidence, it would be open to the minister of the day to proclaim it. Interestingly, the case the member raised was a good reason for having it in place. In most cases the mere threat of invoking the provision was sufficient to modify behaviour. However, it was not my preferred position to have delayed proclamation. I prefer that it be made part of the Act. WAMA believes it can get the legislation defeated. Obviously the Opposition is playing WAMA's role. That is fine. The association said that if it was not defeated it preferred something like this so that it was not implemented immediately.

Much misinformation and wrong emphasis is circulated. Statistics show that fewer than one per cent of planning decisions end up on appeal to the minister or the tribunal. Ninety-nine per cent of decisions are not challenged. It is not right to say that WAMA loses its powers, but that someone has a checking mechanism against unjust decisions.

Mr KOBELKE: I will ask the Minister to answer the question I put to him; that is, what provisions other than the contentious one -

Mr Kierath: I answered it. To my knowledge there are no other matters. I said that the only provision was appeal rights and rezonings.

Mr KOBELKE: I thank the minister for clarifying that. What came through in the minister's reference to essential services legislation is that his style of government is antidemocratic. He does not believe in running his portfolios, ministries or government in a way that respects the democratic rights of citizens. His view of ministerial power is that he should be able to dictate to people. That is what essential services legislation is about. It is about undermining people's democratic right to take action on some pretence of essential services. That clearly reflects his different philosophical position.

Mr Kierath: The appeal right is not to the minister; it is to the tribunal.

Mr KOBELKE: The minister raised the fact that this would make the Act like essential services legislation and he commented to the effect that people are cowered by it and fall into line and therefore it is not necessary to use it. That is not true of essential services legislation and it is not true in this situation. The very clear conflict between two things he said is: First, if legislation is in place by which people feel threatened - not the minister's exact words but their meaning - it is not necessary to use it because they will fall into line.

Mr Kierath: I said my preferred position was to proclaim it.

Mr KOBELKE: Yes, but essential services legislation was his example. It aptly reflects his view of this legislation and his style of government. I have a very different philosophy about what government should be about. One of the conflicting things he said in his last contribution was that if this legislation were in place people would feel that they must act in a certain way and therefore the system would work better without having to implement or make use of the provisions. The second point he made was that very few appeals reach the tribunal or the minister. I accept that. However, the conflict between

those two is that many people will not appeal if they do not feel they have a chance of succeeding. It does not mean that many people do not feel aggrieved. However, they will make a judgment about whether they have a chance of succeeding. There is a clear conflict between those two positions. What the minister seeks to legislate may lead to very few appeals. However, it will have a direct impact on the decisions made by local government because they do not want to be caught out with their decisions being overturned by appeal. On that basis, they will condition their judgments knowing how the system works. The minister cannot have it both ways. He cannot state that very few appeals have come forward and therefore there will be little use of it and at the same time say that because this legislation is in place it will condition the responses of people to behave in a way that is better. I see this provision hanging over them as a clear threat to the way in which they operate.

I accept the minister 's response that this is the only provision that is affected. It would be much better if the provisions of the Act came into operation on the assent of the Governor, rather than by proclamation. I hope the clause relating to those pure rights will be removed, because the effect of clause 2 will not be so important.

Progress reported.

[Continued on page 3741.]

CARAVAN PARKS - PRESERVATION

Motion

MR BROWN (Bassendean) [5.02 pm]: I move -

(1) That a select committee be appointed to investigate and report on -

(a) ways to preserve the Western Australian lifestyle that enables the average family to enjoy a low cost caravan or camping holiday;

(b) ways of preserving, or where this cannot be done, replacing existing caravan parks that are well utilised and provide a low cost family holiday;

(c) the wisdom of zoning land exclusively for caravan parks;

(d) the mechanisms that should be available for caravan parks to be owned and/or operated by tenant cooperatives or entities.

(2) That the committee have power to call for persons and papers, to sit on days over which the House stands adjourned, to move from place to place and to report from time to time.

(3) That the committee present its final report by 1 May 1999.

This motion is similar to a motion that I moved earlier this year. I move it on a second occasion for two reasons: Firstly, I have received further representations on a number of issues concerning the preservation of caravan parks, and the provision of new parks in Western Australia; and, secondly, this is a key issue for the tourism industry and the people involved in the caravan and camping industry. I will start with a quote from the President of the Caravan Industry Association in Western Australia, contained in the *Caravan Industry News* of October-November 1998 -

> There is a lack of understanding by Local Government and the Department of Planning in regard to the dynamics of caravan park development. Regulations have improved the standards in caravan parks, but unfortunately increased development costs. The cost of land is a major factor in assessing the viability of new caravan park developments.
>
> Such low cost land cannot generally be found within townsites and developers look to land on the outskirts of towns to provide viable developments. Local Government is not allowing caravan park developments on rural land under their discretionary use provisions. Citing density and distance from amenities, the Minister for Planning has rejected appeals by developers against Council decisions.
>
> Market forces and regulations provide for a high level of facilities and amenity on caravan parks sites. Caravan park users are mobile are transient and self-sufficient.

In essence, the article points out the difficulty that is being experienced by developers involved in not only the development of caravan parks, but also the continuation and provision of caravan parks in Western Australia. I raise this matter because, as I said when an earlier motion came before the Parliament, the provision of sites for caravan parks in Western Australia is a responsibility that is shared by a number of government departments and agencies - the Department of Land Administration, the Ministry for Planning, the Department of Local Government and so on. There does not appear to be any coherent structure to ensure that the lifestyle to which Western Australians have become accustomed will continue to be available in future years through the provision of low-cost caravan accommodation in this State.

It is important, from a social development point of view, for that type of arrangement to be made now rather than in 15 or 20 years when the opportunity to create those facilities at many of the premium locations around the State will be lost forever. As the population of Western Australia and regional centres expand, and greater development takes place in those regional centres, the prospect of ensuring sufficient caravan parks and space for the travelling public using caravans to enjoy a low-cost holiday will be restricted. It is interesting to note the degree to which the industry is expanding and the opportunities that could pass us by unless we take some early decisions to make the appropriate planning arrangements. I will again refer to the article in the Caravan Industry Association's newsletter. The article states -

> The caravan industry is at a crossroad. Sales of caravans is increasing by an average of 15% per annum as the aging of the population, retrenchment and early retirement takes effect. There is already a serious shortage of sites at many destinations.
>
> A Bureau of Tourism Research study in 1991 projected an additional 61 000 (300 large tourist parks) would need to be constructed in Australia by the year 2000 to meet demand.
>
> Unless the current situation is changed there will be serious implication for tourism and employment in Western Australia as the caravan industry, which currently provides more than 50% of tourist accommodation to the state, stagnates.

The article continues and talks about not only maintaining a lifestyle - that is important, and would demand a proper examination of the issue - but also it being an important industry, and the employment opportunities in the tourism industry that can be created by appropriate arrangements being made to ensure an increase in the number of caravan parks around the State. One need only consider the demographic changes in our population, the number of people who will be retiring in the next 10 to 15 years, and the health improvements of people of that age, to realise that many of them will be mobile, and will be seeking a lifestyle using caravans and camping accommodation. We have a dire need to ensure that the State takes responsibility for this type of planning.

On the last occasion we debated this matter the Government, through the Minister for Local Government and the member for Vasse, gave two reasons for rejecting this proposal. The first reason was that there was not a critical shortage of caravan parks. I suggest that if we wait until such time as a critical shortage exists, we will be negligent. It will be too late to plan when there is a critical shortage of caravan parks. Now is the time to plan. The time to plan is when there is time to make provision for the future and not wait for 10, 15 or 20 years when that opportunity has passed us by. Indeed, it takes a great deal of time for those plans to be put into place. Therefore, I reject the argument that as there is no critical shortage at the moment, there is no reason to set up the select committee. If we are interested in preserving the Western Australian lifestyle as we know it, if we are interested in ensuring that families have access to low-cost accommodation, if we are interested in ensuring that the tourism industry can expand and that we can maximise employment in that industry, if we are interested in capturing not only a Western Australian share but a national share of the caravanning market, we need to make provision now. The fact of the matter is that no coherent strategy exists.

Mr Omodei: We need to make provision now where?

Mr BROWN: We need to make provision now for setting up structures for looking at long-term needs, the planning arrangements and what they should be, who will take responsibility for them, what the zonings should be in relation to those planning arrangements, seeking mechanisms for working out arrangements with local government so that this can be put into place and therefore caravan parks are not moved, questions of what zonings there should be - should there be zonings in perpetuity - and issues of land access. A variety of issues need to be addressed. They are not easy issues to address; they are complex issues. They are not matters that can be addressed overnight. We cannot wait until caravan park A closes down and we are faced with a problem, and then wait until caravan park B closes down and we are faced with a problem. However, by doing that, we are constantly reacting, constantly trying to play catch-up and constantly trying to deal with problems that in some instances it will be simply too late to deal with.

The other matter is that I have a healthy respect for local government. I have many colleagues and friends in local government who do an admirable job on behalf of the local community. However, local government, for all its strengths, has some weaknesses. The great thing about local government is that it is close to local people. The pitfall about local government is that sometimes one has to take a much broader perspective; one has to take a state perspective instead of a local perspective. Unless the State Parliament provides some lead in these areas, we face the prospect that as centres become more attractive and the population in those centres increases, more pressure will be exerted on local councillors by their ratepayer base not to establish caravan parks, or to move established caravan parks away. It is important to make planning decisions on caravan parks and camping areas in advance of all that and to take it out of the politics of local government.

Mr Omodei: One does not need a select committee to do that.

Mr BROWN: One needs a select committee to set up the planning mechanisms and to consider all the implications of this. It is interesting that since the last debate I have had correspondence from the Shire of Busselton, to which I will refer. It is

a shire under development pressure, as the minister knows very well, and it supports the establishment of such a select committee.

Mr Omodei: Why? It has just received an application for a new caravan park.

Mr BROWN: It may well have done. However, in the letter the shire wrote to me - if I have time I will refer to it - it supported the establishment of such a committee. In its correspondence, it drew a distinction between different types of parks and the fact that some parks are geared more towards the tourism market whereas others are geared more towards the permanent home-type market, mainly for people who are retirees. It emphasised that point. However, the shire in fact supported the establishment of this committee.

It is interesting that the industry association itself recognises that these types of problems exist. This is not something that we manufacture here to talk about because there is nothing else to talk about. This has been an issue for some time; it continues to be an issue; it continues to be raised by the association and other people. The association and people living in caravan parks raised it with me some time ago. It was raised with me again when I attended the association's breakfast prior to the caravan show earlier this year. It has been raised with me since then. It will not go away. What I would like to see - hence the reason for promoting a select committee - is an attempt at a bipartisan approach to this issue, because it is in the State's best interests to deal with this issue.

The other point is that these types of matters cannot be dealt with satisfactorily on a case-by-case basis. I am pleased the Minister for Lands is in the Parliament at the moment, because I have been corresponding with the minister on the Ledge Point Caravan Park. We have exchanged a number of letters in relation to that park. It is pleasing that arrangements have been made with a developer to acquire a parcel of land, which is crown land, to establish a new park adjacent to the Ledge Point Caravan Park. However, the processes for establishing that new park will be quite long. The Minister for Lands has said to me that he can do certain things within the province of government. However, there are also possible or probable native title claims on that land which may take some time to resolve. We all know the complexity of the native title issue. If the Government's legislation currently before the Parliament is successful - and works successfully - we are still talking about a time frame under that legislation of around, at the minimum, eight months for matters to be dealt with. However, it will more than likely be around a year or more. That is under the Court Government's legislation; that is not under the national Native Title Act that is complained of. I am not advocating doing away with native title. However, there are complexities in this matter of allocation of land for this purpose. What I am keen to do is to establish a select committee that can consider all of these complexities and bring down a report that can effectively deal with this matter.

The other issue to which some of my colleagues will refer relates to changes which will require people more than ever to use caravan parks and camping areas. Unless some proper planning is undertaken and a coherent strategy is adopted, when we see this increase in the number of people who will be seeking these facilities, I can foresee that one of two things will happen if these facilities are not provided. People will either say that Western Australia is not the place to have a holiday because the facilities simply are not there; it is not tourist friendly. They will then go to other States and Territories and elect to take their holidays there. With that, they will take their money and all of the economic development and employment that brings. Alternatively, people will say that notwithstanding the failure on the part of the Government to make provision for those types of facilities, they will continue to camp in areas where they are not supposed to be. People will then say that they will continue to squat and use areas for which they have no authority. They will then clash with the Government of the day. The notion of a Government banging its head against families on the one hand and senior citizens on the other, is not a very appealing political dilemma for it to face, irrespective of its political colour. Therefore, it is important that we make these provisions.

We do not come forward with a proposal for a select committee simply on the basis of a voice from industry. This view is not put forward by the industry only, whether it be by the people involved in making caravans, operating caravan parks or the like. Certainly we are putting forward this view in the interests of the industry, but we do so also in the interests of current and potential caravan users. We are not promoting this issue on the basis of one sector's interest but on the basis of a community and state interest.

I could go on and talk at length about this issue. I am cognizant that a number of my colleagues wish to raise some matters. Representations have been made to them concerning necessary changes in the provision for caravan and camping areas. As I said earlier, I shall briefly refer to correspondence from the Shire of Busselton. The Director of Planning and Development Services of the Shire of Busselton in a very pleasant letter written earlier this year indicates that as far as he is concerned there are two distinct issues, one relating to park homes and the other relating to the loss of tourism caravan parks. In relation to the latter he says -

> In such parks, permanent occupancy is generally prohibited in terms of the original approval or the land use zoning. Their loss correspondingly should not affect the availability of retiree housing, but does have a significant impact on the availability of sites for the lower-cost family tourist market. It is this process of redevelopment of tourism caravan parks to tourist resorts or chalet parks that has caused Council concern in the past, as it is perceived that it may result in the displacement of the "family tourist".

This is from a shire which, I suggest, knows something about these matters. On the second page he says-

> While Council is supportive of the moves to establish an enquiry into this issue, it is considered imperative that it is clarified that there are two distinct "demands" involved and that the protection of retiree housing opportunities in caravan parks will not necessarily protect the very important "family" tourist function of a number of the State's very popular caravan parks located in coastal areas.

We can see from that shire, which is certainly involved in this issue, a recognition that the family-style tourist caravan park is threatened by the type of ongoing developments that we have seen take place in the State. As I have said, unless we deal with this situation in a holistic and bipartisan way and make plans for the future, it will simply be too late. It has been indicated to me that the Government will still not support this select committee. If that is the case, I am disappointed. A select committee of this nature could make a good contribution to the industry, to ensuring that we maintain a Western Australian lifestyle that we are used to, and to ensuring that those people who do not enjoy high incomes are not forced out of being able to enjoy some of the prime locations in the State simply because they cannot afford to stay there. If we look at some of the prime locations in this State compared to those in heavily populated countries overseas, we see that many ordinary citizens do not have the opportunity to enjoy such holidays. There is no provision for the low income citizens in those countries to enjoy those facilities. It would be tragic if Western Australia were to reach that position.

I urge the Government to support this committee in the interests of the industry and of all caravan users who should not be excluded from the prime locations of the State simply because they do not have the financial capacity to afford higher-priced accommodation.

MR CARPENTER (Willagee) [5.25 pm]: In my electorate, obviously as in many others, significant numbers of senior citizens head north for caravanning holidays during the winter months in Perth. Some senior citizens who live in my street do this. With a degree of envy I watch them heading off with their fishing rods each year for three or four months in the north west on their sojourns into warmer climates.

Mr Osborne: We should have a second Parliament House up there.

Mr Shave: At Cable Beach.

Mr CARPENTER: Wherever it should be, let us hope the Government Whip manages to make the divisions.

During the period I have been elected, I have been approached by numerous constituents over two issues relating to caravanning and camping. The first is their concern about the matters raised in some detail by the previous speaker; that is, the potential for the disappearance of caravan parks or the diminution of the number of caravan parks and the impact that may have on their chosen lifestyle. The second strand of their approaches to me relates to their capacity to camp in traditional areas beside beaches where there are no caravan parks.

I will address each of those two strands of concern that have been raised with me. What we need to do at some time in the development of planning and legislation in Western Australia is to look at the issues that the member for Bassendean has raised; that is, to guarantee access for as many of our citizens as practicable to the kinds of lifestyles that they have been used to, particularly the kinds of holidays that they have been accustomed to such as beach-side caravanning holidays that are part and parcel of the way of life of many Australians. The point around which concern galvanised was the prospective closure of the Ledge Point Caravan Park. I, like most members of Parliament, receive a large amount of material from people who have been in the habit of taking their holidays at Ledge Point. They are concerned that their chosen destination will be denied them. It is a genuine issue and something which this Parliament can usefully address through a select committee, as suggested. Let us look at the nature of holiday venues, principally for caravans, and let us set down some conditions and strategies which will guarantee the ability of people to enjoy those holidays in the future. A growing number of people are reaching the age where they have left the workforce and have plenty of time on their hands, whose assets are sufficient to allow them to travel the State but who do not want or are not able to stay in motels and hotels, and who want to use caravan parks. As the generation that is approaching retirement, of which the member for Bassendean is a member, proceed through their lives, the number of those people will grow considerably. If members look at the demographic trends, a huge swell will be found in the graph of people who are now approaching retiring age. We must be aware of that, and of the issues that will be part and parcel of that ageing population.

The Parliament can usefully and valuably establish a select committee to look at the preservation of the caravanning lifestyle that a large and increasing number of people enjoy. I would hate to see the day arrive when coastal land has become so valuable that it is simply not viable for the owners or potential developers to maintain it as a caravan park, and the beach-side caravan park and the beach-side caravanning holiday becomes far more difficult to access and perhaps even a thing of the past for many people. That is one important area that we can look at in this select committee. Point (c) of the motion addresses the wisdom of zoning land exclusively for caravan parks so that land would be set aside exclusively for that purpose for an indefinite period.

The second concern which has brought me a greater level of concern from my constituents is the capacity for people to take

camping and campervan holidays without necessarily having to stay in designated caravan parks. We have recognised through this debate already that a significant development has been made in this issue in the past 12 to 18 months whereby the enforcement of changes to regulations governing caravanning and camping have threatened the closure of some traditional beach side camping areas in the north west, particularly in the Pilbara in the electorate of the member for Burrup, where two beaches, Cleaverville and 40-mile beach, are subject to much attention from local government councils which are cracking down on the number of people who camp, or have traditionally camped, in those areas because they are technically in breach of the regulations.

It is an unfortunate development that large numbers of people, many of whom year after year, or for some decades, have taken the same holiday into these camping areas which are not designated caravan parks, are suddenly being confronted with the possibility that they cannot continue that activity. That is something that we as Parliament could address through this select committee. I understand that an amendment might be moved to this motion to more specifically address that issue. I believe that the people who take these camping and caravanning tours in the north west and along the south coast of Western Australia are very responsible citizens who go to the same place year after year. They look after the area very well. I have been to some of them myself. The areas are invariably clean. They take their own water in and out, they leave no rubbish behind; they are ideal tourists. They add considerably to the local economies in the towns and areas through which they pass. When I was in Burrup two months ago I had a discussion with a business proprietor who was lamenting the fact that some of these campervan clients might be forced away from the area and the potential impact it might have on his business. Another concern was expressed in the area around Hopetoun, between Albany and Esperance. The same factors are at work whereby large numbers of people who take their holidays there stay in areas which are not designated caravan parks and they do no damage; in fact, they probably do some considerable good looking after the areas in which they camp and across which they traverse.

The member for Bassendean referred to the notion of the Western Australian way of life and the Australian way of life. It is part and parcel of the way of life for a large number of our citizens that they pack up and go on a camping-caravanning holiday. They should be free to do so as long as they are not impacting in a negative way on the environment and on the capacity of other people to enjoy their lifestyles and their businesses; I see nothing wrong with it. It is an unfortunate development if bureaucracy and red tape and unnecessary regulation causes those people grief. Those people I refer to specifically are my constituents and I bring their concerns to the attention of Parliament. We could address their concerns and rectify the problems which are currently confronting them through this select committee as proposed by the member for Bassendean.

Amendment to Motion

MR McGOWAN (Rockingham) [5.37 pm]: I move -

> That the motion be amended by adding a new paragraph (e) as follows -
>
> (e) ways of preserving and advancing the enjoyment and traditions of caravanning in Western Australia and supporting the traditional caravanning lifestyle of many Australians.

Although I support the motion of the member for Bassendean, this amendment helps fully examine a range of the issues involved in caravanning in the State of Western Australia. I will address three issues. The principal one was touched on by the member for Willagee; namely, the issue of the traditional caravanning lifestyle for a large number of Western Australians, principally older Western Australians. Hundreds of my constituents in Rockingham have enjoyed that traditional camping and caravanning lifestyle over a number of years - sometimes up to 40 years - which is now being taken away under the provisions of the caravan and camping grounds regulations. All members in this place will have received correspondence about this by very angry people in this State who have enjoyed such a lifestyle after they have retired from the work force, often after working long years. Generally they are not overly wealthy people, but they have saved and provided themselves with a caravan, and that caravan, particularly through the winter months, is their source of enjoyment. They pack up their gear about May or June of each year, put everything in the caravan and drive north. They do not rush; they take their time. Most of them are older people. They have a relaxing trip which often takes a number of months. They do not like to travel long distances because obviously one cannot drive too fast with a caravan, but they like to stop at rest areas. They end up at a destination which would probably be one of the beaches in the vicinity of Broome, Karratha or even the Northern Territory. They set up camp for a while there in their caravan. Many people in this State have enjoyed that lifestyle for decades. We have seen local governments being forced to apply the caravan and camping grounds regulations, the provisions of which prohibit this lifestyle which they have enjoyed for a long time. Regulations 10 and 11 state that they cannot go away and stop at these beach side places.

Mr Omodei: What prohibits them?

Mr McGOWAN: I know the minister; he is so predictable. The minister will say that these regulations have been in place since 1974 and that his Caravan Parks and Camping Grounds Regulations are just a repeat of those earlier regulations. I acknowledge that regulations were in place which prevented overnight camping.

Mr Shave: Don't you think there should be regulations?

Mr McGOWAN: The member should just listen for a moment.

Mr Bradshaw: I want to know which regulations stop people from doing it.

Mr McGOWAN: The Government's regulations. Has not the member for Murray-Wellington read the letters which have been sent to him? The Caravan Parks and Camping Grounds Regulations 1997 state -

> A person may camp only -
>
> (a) at a site in a caravan park or camping ground, as appropriate, licensed under the Act;

For decades in a range of places in the north people have set up camp unmolested. These include Cleaverville and 40-mile beach which are in the member for Burrup's electorate. People go up there and camp for a while. The regulations should give the minister the capacity to gazette certain areas as traditional camping areas. An area which for decades has traditionally been used as a camping area should be gazetted as such and made subject to certain regulations. The campers have told me that they do not object to having to ensure that they clean up after themselves, to paying a fee for garbage collection or having the council inspect their caravans to ensure sewerage is taken care of and that these areas are kept in a tidy and attractive state. I do not see what the problem is. Surely we live in a free country and people should be able to do these things.

Mr Bradshaw: Do you know what the problem with Cleaverville is?

Mr McGOWAN: What is it?

Mr Bradshaw: The native title claim.

Mr McGOWAN: No, I can quote the minister's letter. According to the minister, the problem is that the Department of Land Administration will not allow it. The council cannot do anything. The Shire of Roebourne is keen to allow this practice to continue but the Department of Land Administration and the Minister for Local Government's caravan regulations will not allow it. That is the real reason. The member can blame it on anything he likes, but he should not talk about things he knows nothing about.

This lifestyle encourages people from other States to come to Western Australia and head north. They spend their money in the communities up north and enjoy a lifestyle away from the rush of the city. It is probably as far away as one can get in the western world. The lifestyle attracts people from all over Australia, particularly the older population of Perth and those who cannot afford to stay at places like Cable Beach Resort. It has an economic benefit for towns like Karratha and Roebourne. People stop in those towns and buy their provisions. Small businesses are keen on this lifestyle which allows people to do what they want. What is wrong with that? Who is it hurting? I accept the need for gazetted areas which have traditionally been used for camping. With an amendment to the Caravans Parks and Camping Grounds Act the minister would have the capacity to gazette certain areas but he will not do that and no-one knows why. I have received correspondence from various people who are committed to this lifestyle. Mike Venn is a constituent of mine who has been active on this issue. He has been agitating effectively in an attempt to get some changes made to these regulations. In a letter to me he stated -

> I as spokesperson for what were the Cleaverville and 40 Mile Bush Campers take it upon myself to, I am sure, voice the opinion of every other Caravan, Motor Home, Camper Van, Camper Trailer, tent or swag owner, not only in W.A. but throughout Australia to demand and expect our freedom of choice between Caravan Parks, Bush Camping Areas and the convenience of en route overnight Rest Stop Bays.

He continues -

> I therefore on our behalf seek your support to ensure that through the like of C.A.L.M., National Parks and Local Authorities that existing Bush Camping Areas are protected . . .

I also have received a letter from the Newman Tourist Bureau. It is in the business of attracting people to the north. It stated -

> The coastal area's are not alone when referring to the long distances between towns, the vast majority of our visitors are retired caravan and campers, they are travelling for extended periods from 2 to 6 months. Most of them are pensioners who allow in their budget to have some free camping nights, this law will directly affect there stay away and some just might not be able to afford to travel. So we all miss out!

That is a good comment. The Kalamunda Lapidary Club also wrote to me. I am not sure what lapidary means.

Mr Bloffwitch: Rocks.

Mr McGOWAN: Right. The club uses caravans and stated -

> Our Field Trips vary in distance from a few hundred to a few thousand kilometres; the shorter trips usually mean no interim camping is necessary before reaching our destination but our longer trips, often along isolated and unsealed roads, make it impossible to reach our destination without the need for overnight camping en route, thus making it well nigh impossible to comply with the recent regulations re overnight camping.

The letter continues -

> When this regulation becomes known across Australia, it will have a very negative effect on the tourist industry. Caravaners will not be prepared to travel to Western Australia to be bemused and penalised by this regulation.

Mr Omodei: Which regulation is that?

Mr McGOWAN: These are the minister's regulations, regulation 10 and 11. The minister should open his ears.

Mr Omodei: I do not think any of you have read the regulations.

Mr McGOWAN: I will give the minister a history lesson. He put in these regulations some time ago. I have to remind him because he forgets. I came in here and pointed out that they would cause people to knock down their annexes. He told me to stop frightening old people and misleading the House. Within a few months he abolished the regulations, copied my press release and included exactly what I said.

Mr Omodei: It was a whole lot of local governments which were overzealous in their application of the regulations.

Mr McGOWAN: That is what I said to the minister. He followed my example. I am sure the minister will do the same in this case It will take a few months but eventually the minister will follow the leader and come to his senses about this. The minister obviously has some difficulty in understanding the rules. In a question on notice on Tuesday 19 May I asked the Minister for Local Government why Cleaverville and 40-mile beach were no longer available for caravanning. The answer was -

> The Shire of Roebourne is applying the Caravan Park and Camping Grounds Regulations 1997 which prohibit camping on land that is not a caravan park or camping ground.

Those are the minister's own words. What more does the minister want?

Mr Shave: Do you think they should camp everywhere?

Mr McGOWAN: No, what I am saying is some areas have traditionally been used for camping.

It appears that some sort of clique at the top runs these things. However, I believe most members would agree that these areas, which older people have traditionally used for inexpensive holidays, should remain open. What is wrong with that?

Mr Omodei: Nothing is wrong with that.

Mr McGOWAN: No, but I will repeat -

> The Shire of Roebourne is applying the Caravan Park and Camping Grounds Regulations . . .

The minister has been proved wrong. He is out!

Mr Shave: How would you handle that? Do you not think the local shire should determine that matter?

Mr McGOWAN: The minister should tell us what he thinks. Should the shire ban these people from camping in these areas?

Mr Shave: Yes, if that is its choice. It is in charge of the Roebourne area.

Mr McGOWAN: The minister would be surprised to learn that the Shire of Roebourne wants to allow these people to camp there, but it cannot do that because of these regulations.

Mr Omodei: That is rubbish!

Mr McGOWAN: The minister should wake up to himself. I will give him a copy of his answer. I have pointed out that a range of people will be affected by these regulations and they are very upset.

Mr Omodei: You have fed them a lot of garbage. It is no wonder they are upset.

Mr McGOWAN: The minister will have to follow me again next year! The minister does not like old people. He does not like them to catch buses and do a range of things, particularly camp.

The final matter I want to raise is the distances involved. People need to drive for many hundreds of kilometres along these

roads in the north and, if they are towing a van, they should be able to stay somewhere where they can have a bit of a rest. The Karratha Tourist Bureau has written to me and said -

> The Department of Transport is spending heaps of money promoting the "pull over and having a sleep if you're tired campaign" whilst the Department of Main Roads are now flat out pulling out of all the roadside stops. Crazy isn't it.

That is right. Designated rest areas should be provided along the side of the road where people can stay overnight.

Mr Omodei: I agree.

Mr McGOWAN: The minister has talked about amending the regulations, for which I called first, and the minister followed me yet again. The minister should do that quickly. I would support such a Bill, because it could save some lives.

Another problem that the minister may be able to clear up is that these regulations prohibit people from staying in a caravan in a backyard for more than three nights without the written permission of the local government authority. People may want to have visitors from interstate or overseas stay in a caravan in their backyard for more than three nights. That regulation is a bit onerous. When I was a kid, I used to live for days in a tent in the backyard, and I had a great time. These regulations must be amended, because many people in this State are very upset and are suffering.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.54 pm]: This is the second time this motion has come before the Parliament. I am concerned again that the Labor Party is spreading a lot of misinformation, rather than assisting caravanners and giving them advice about what they can do with regard to designated camping areas; in other words, talk to their local governments -

Mr Riebeling: What should we tell the people who want to go to Cleaverville and 40-mile beach?

Mr OMODEI: They should consult with their local government, and that local government should make approaches to secure land for a camping area.

Main Roads WA is examining the question of overnight stops. Members opposite have not read the legislation and do not know what is happening in the caravan industry in Western Australia. If members opposite were so concerned, they would have attended the Caravan Industry Association conference in Busselton last week and would have heard the national president and executive director of that association say that Western Australia is one of the few States with more caravan parks now than in the previous year. The Labor Party is saying that all of these caravan parks are disappearing. That is not true.

If local governments want caravan parks to remain caravan parks, all they need do is have in their town planning schemes permanent zonings that will prevent landowners from ever redeveloping caravan parks. Busselton has just received an application for a new caravan park. Every local government has the power to amend its town planning scheme to allow for a conditional use of land for a caravan park. If the member for Burrup were concerned about caravan parks and camping grounds in his constituency, he would talk to his local government and tell it to zone the land appropriately. The member for Burrup is trying to tell the Parliament and the people of Western Australia that people should be allowed to camp wherever they like. What about the issue of public liability?

Regulation 11 of the Caravan Parks and Camping Grounds Regulations provides that a person may camp for up to three nights on land other than at a caravan park or camping ground. Pages 70 to 73 of the regulations contain a number of definitions, including the definitions of a "nature based park", a "caravan site", and a "transit camp". A "transit camp" means a facility where an occupier may stay no longer than three consecutive nights. In most cases, people can camp in transit parks, with the approval of the owner of the land -

Mr Riebeling: What about Cleaverville and 40-mile beach?

Mr OMODEI: If they need to have caravan parks, the local government should take action to do that.

Mr Riebeling: It cannot permit camping there.

Mr OMODEI: It can, with the approval of the local government and the minister, but it must formalise it. Subsection 11(2) states -

> Written approval may be given for a person to camp on land referred to in subregulation (1) for a period specified in the approval which is longer than 3 nights -
>
> (a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months; or
>
> (b) by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months.

I understand that Cleaverville and 40-mile beach are crown land, and I expect that would require the approval of the Minister for Lands.

A Caravan Parks Advisory Committee has been set up. The member for Burrup would be aware that for eight or nine years, the caravanners of Western Australia have wanted to have legislation. Camping was regulated under the Health Act and they wanted a specific Act of Parliament, so we established the Caravan Parks Advisory Committee. Section 25 of the Caravan Parks and Camping Grounds Act established the Caravan Parks and Camping Grounds Advisory Committee and reads -

(2) The Committee is to comprise -

(a) such number of persons as the Minister determines, appointed by the Minister to represent -

(i) the Western Australian Municipal Association constituted under section 9.58 of the *Local Government Act 1995*;

(ii) the caravan industry;

(iii) consumers;

(iv) that part of the Public Sector, as defined in the *Public Sector Management Act 1994,* with an interest in caravanning and camping; and

(v) such other interests as the Minister considers appropriate;

and

(b) an employee of the Department nominated by the chief executive officer . . .

(4) The functions of the Committee are -

(a) to provide advice to

(i) the Minister;

(ii) the Department;

(iii) public sector bodies, as defined in the *Public Sector Management Act 1994*;

(iv) local governments;

(v) members of the public; and

(vi) such other persons as the Minister directs with respect to caravanning or camping; and

(b) To recommend to the Minister, or such other persons as the Minister directs, ways to improve, promote and regulate caravanning and camping throughout the State.

(5) The Committee may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

That is the committee to which the Labor Party should be talking. Alternatively, the Labor Party should move an amendment to the Act or the regulations rather than running around telling old people throughout the State they are no longer allowed to camp because of these terrible regulations.

Mr Riebeling interjected.

Mr OMODEI: Members of the Labor Party are being irresponsible because they are telling people to camp in places in which if they had an accident they would not be covered by liability insurance. Are members opposite willing to accept liability? Of course they are not.

Mr Riebeling interjected.

Mr OMODEI: I am saying that in areas frequented by caravanners, the local government in that area should be advised by the member for Burrup to take appropriate steps to ensure that area is properly gazetted as a transit park or caravan park.

Mr Riebeling: You tell them.

Mr OMODEI: I cannot tell people what to do. The regulations and this Act were prepared on advice from the Caravan Parks Advisory Committee, which is representative of all the people involved in caravanning around Western Australia. A large number of people in my electorate of Warren-Blackwood travel north in the winter time, particularly from Augusta. About the end of May there is an exodus of about half the population north to all points between Jurien Bay and Kununurra. They take their caravan with them and return at the end of winter. Many of them have been camping in designated areas

all their lives. Why would I, as a member of Parliament, want to make life difficult for my own constituents? However, we must be responsible in clarifying these issues.

I predict that the Cleaverville and 40-mile beach issue will be resolved if, say, the member for Burrup goes to the Shire of Roebourne and suggests this matter should be resolved. I would be more than happy to do all in my power to ensure it is gazetted as quickly as possible. I am told it is crown land and therefore subject to native title which makes the matter more complicated.

Mr Riebeling: Has the shire been to see you?

Mr OMODEI: No. Does it not beg the question: Why has it not been to me?

Mr McGowan interjected.

Mr OMODEI: They are great friends of mine; I have a good rapport with local governments in Western Australia. I do not know whether I can say the same about the member for Rockingham. If there were a problem with this legislation I would have been told by now. The legislation is more than a year old; the regulations were passed in 1997. As soon as an issue arose in which local governments were overzealously applying the regulations concerning annexes, pergolas, and the like, the matter was referred immediately to the advisory committee, which made recommendations to change the regulations and they were changed.

If there is a case in relation to Main Roads stopover places at night, which we are addressing, it needs to be formalised.

Mr Carpenter: We must have regulations. These people have been going to those spots for decades and all of a sudden they must abide by those regulations. They have not done a thing wrong.

Mr OMODEI: They can comply with the regulations under the old Act. One regulation provided that people could not camp within 16 kilometres of a gazetted caravan park.

Mr Carpenter: It was not being enforced.

Mr OMODEI: It was. If somebody spends $2m to develop a caravan park and people are allowed to camp within a couple of kilometres without any sanitary arrangements and something happened such as the caravan burning down, who would be responsible? It is the responsibility of local government to police caravan parks and camping grounds legislation. Now I understand why the Labor Party did not bring this legislation into the Parliament. It was either lax, incompetent or just afraid.

Mr Riebeling: We had a bit of compassion; something you do not have. You want to destroy pensioners' way of life.

Mr OMODEI: Members opposite did not have the courage to bring in the legislation.

Mr Riebeling: Just because you did it, that does not make it right.

Mr OMODEI: The 1995 legislation and the Camping Grounds Regulations 1997 regulate caravan parks and camping in the State. The legislation deals mainly with the standards of development of caravan parks and camping grounds and contains provisions governing where people can camp. There has been a common misconception in the community that new legislation prevents people from camping within certain distances of caravan parks and the member for Burrup referred to 50 kilometres. That is not true. The legislation provides that there can be only a transit park within 50 kilometres.

Mr Riebeling: That is right; that is the only way they can stay there under your regulations.

Mr OMODEI: That is right. The Labor Party would allow people to camp all over the State wherever they liked.

Mr Riebeling: That is what we are saying. Your bureaucrats have read the legislation; you should read it yourself.

Mr OMODEI: I have read the legislation. I do not think the member for Burrup has read it. In relation to where camping cannot occur, and the replacement of existing caravan parks, if a park is owned on freehold title - I have already mentioned the matter in relation to local government town planning schemes - the owner has a fundamental right to sell his land. That is what happened at the Ledge Point Caravan Park in the Gingin Shire. If that land was zoned "caravan park" the owners could use it only as a caravan park. However, that would not guarantee that any owner of such land could continue to operate a caravan park. The Department of Land Administration could release crown land for caravan park purposes. I understand that option is being explored by the Ledge Point owners and by the Gingin Shire.

If land is zoned for caravan parks, it can be used only for that purpose. In the case of Ledge Point the land was zoned "tourist" under the town planning scheme under which various types of accommodation are permitted; for example, self-contained resort-style accommodation units. Accordingly, specific caravan park zoning may preserve the land for the purpose, but of course land can be rezoned. If members have a problem with the lack of caravan parks or camping areas in their electorates, they should raise the matter with their local government, which has a number of options. It can amend

the town planning scheme to provide for caravan parks. It does not need a select committee, along with all the toothpaste, etc that go with select committees. Each member of Parliament can write to them. If they cannot do that, they should write to me and I will write to them.

Mr Carpenter: When you referred to sanitation, what were you suggesting?

Mr OMODEI: I was referring to waste water. Not all caravans have their own sanitary facilities.

Mr Carpenter: When people were camping you referred to safety and sanitation. What were you suggesting?

Mr OMODEI: The legislation requires that appropriate measures be in place for waste water and human waste. The member for Burrup has concerns about overnight stays; the legislation allows for that. It is probable that over the years people have not sought the permission of the landowner, whether it be crown land or private property.

Mr Riebeling: It is ridiculous to get permission to stay overnight by the side of the road.

Mr OMODEI: Would the member for Burrup let people camp wherever they liked if he were a station owner? It is a tradition in station country for visitors to contact the homestead and let the owners know how long they will be on the property and what they will be doing. This issue has been beaten up by the Labor Party. It is causing concern among caravanners. The caravan industry is enjoying a growth period at the moment. The legislation formalises the controls in the former Health Act, and puts in place responsible measures to control camping around the State.

The Shire of Roebourne is policing this legislation because it is concerned about litigation. I refer to a case involving the Pyrenees Shire Council, which had a chimney in its municipality that was dangerous. It had ignored a request to fix the chimney and to put a control on the person who owned that chimney. The chimney caught alight and burnt down two adjacent houses and the council was held liable for the damage done. That is the case that local governments around Western Australia are relying on in the issue of litigation and public liability. That is why many local governments are policing this legislation. If the member is concerned with the limit being applied to Cleaverville, as the local member, the member for Burrup should do everything in his power to contact the responsible minister - be it me, the Minister for Planning or the Minister for Lands - rather than going to the Press and talking to big groups of caravan park owners and travellers and telling them a lot of rubbish.

Mr Riebeling: You want me to talk to the minister? What a joke!

Mr OMODEI: Why is that a joke?

Mr Riebeling: When do you tell us the true situation? The minister rabbits on about members on this side not knowing about the 50 kilometre requirement, and he has not spoken to the Shire of Roebourne.

Mr OMODEI: The member for Burrup issued a press release which referred to 50 kilometres and 19 km, when it was 16 km under the former Health Act. The member was incorrect. He has caught the disease from his mate the member for Willagee, who puts out the same sort of rubbish about Australian Council for Rehabilitation of Disabled parking. The member for Willagee is dead wrong, and ACROD had to put out a press statement to point out that he was wrong. However, members opposite are still spreading the same type of misinformation around the community. That is also happening with the caravan legislation.

MR RIEBELING (Burrup) [6.12 pm]: I support the amendment. The legislation affects my area.

Mr Omodei: Has the member for Burrup read the legislation?

Mr RIEBELING: Yes, and I know exactly how it impacts on people who wish to camp at Cleaverville and 40-mile beach. The Minister for Local Government is the cause of that problem. For the past 20 minutes the minister has told us that he has not spoken to the Shire of Roebourne, although he seems to know exactly what it has done and that it has received legal advice. How did the minister know that? Did someone tell the minister?

Mr Omodei: Obviously. It was probably the Department of Local Government.

Mr RIEBELING: Did somebody in the Shire of Roebourne speak with the minister? The minister makes things up. I will read out a letter from the minister which indicates what he does not know about the Shire of Roebourne. The minister's letter is dated 19 October. Does the minister remember writing a letter to Mr Perry?

Mr Omodei: I have a letter here dated 20 October; it is different.

Mr RIEBELING: The minister has forgotten his letter to Mr Perry. The letter refers to the council in relation to Cleaverville and 40-mile beach. It states -

> Council has requested vesting of the subject land so that I can provide for camping at these locations. However, as the land is subject to native title claims, it could not be vested or developed. Further, DOLA (as the owner/controller of the land) is not prepared to allow camping at these locations.

That is the Government. The Government controls the land and will not give permission for people to camp on it. The shire cannot do anything.

Mr Omodei: Has the shire written to the minister?

Mr RIEBELING: This is a letter from the minister to an individual about the problems at Cleaverville. I will explain again: As Minister for Local Government, the minister has told these people that in order to camp at Cleaverville and 40-mile beach, the owner or occupier of the land, which is the Department of Land Administration, must give permission. It is not up to the shire to take it any further. That is what the minister said to this person. The minister continues -

> The Council has obtained legal advice . . .

There is only one council, and that is the one that the minister has not spoken to. How did the minister know that the council had received legal advice? Perhaps I misread the letter. It states -

> The Council has obtained legal advice which indicated that even though it does not own/control the land, as it is within its districts it is obliged to apply the caravan legislation (ie: remove the illegal campers).

Mr Omodei: Is it a gazetted caravan park?

Mr RIEBELING: The minister said that he had not spoken to the shire. Now the minister is saying that the shire has obtained legal advice. My information about the minister's contact with the shire is that the minister's office has put huge pressure on the Shire of Roebourne to crush these people and to get them out of there. The minister's office has said that if the shire does not act, litigation will result. That is what is in the minister's letter, and what the minister's office has told the Shire of Roebourne.

Mr Shave: What do they do for toilets in this location?

Mr RIEBELING: When I was the shire president, the shire constructed toilet plugs so that people could dispose of their chemical toilet waste. Every camper at Cleaverville has a chemical toilet. The shire used to provide a rubbish pick up service, and firewood so the campers would not cut down the bush. The shire provided those services at Cleaverville.

Mr Omodei: Why did you not gazette it as a park?

Mr RIEBELING: There was no need. We did not have a rabid Government like this. We had a reasonable Government - the Lawrence Government. We had no problems with pensioners staying there. We love them up north; we want them to come. There are 200 caravans at Cleaverville and the caravanners will not stay at a caravan park. If they cannot stay at Cleaverville they will not go to the north. Every week there would be 400 to 500 people shopping at premises owned by small traders in the Shire of Roebourne. Those people will not be there next year. The Minister for Local Government talks about a boom; it has not happened up my way. Small business relies on tourists to survive. The minister can score points and make smart alec comments, but his legislation prohibits the declaration of a camping zone within that 50 kilometre zone. That was part of the Riebeling report, which the minister had a go at.

Mr Omodei: It is a transit area; get it right.

Mr RIEBELING: That is the only way, according to the minister 's regulations, that the shire can approve it. The minister's letter said that the shire cannot allow camping, and also that DOLA will not approve of the use of that area.

Mr Omodei: Read the whole letter.

Mr RIEBELING: The minister would not want us to read the whole letter. I had a meeting with the campers and they are very concerned.

Mr Omodei: Did you have a meeting with the shire?

Mr RIEBELING: I have had numerous meetings with councillors.

Mr Omodei: What came out of those meetings? What did you decide to do?

Mr RIEBELING: Councillors expressed extreme disappointment at having been forced by the Government to take the action that they have had to take. That is what they have said.

Mr Omodei: Is that right? I will take up that matter with the shire.

Mr RIEBELING: Outstanding! I hope that the minister does so and that he starts to respond to people's needs. Those campers are not from my area - people in my area live in houses - they are from conservative areas. They are pensioners who have worked all their lives, and that lot is taking away their way of life. Some of them have been going there for 30 years. They planted trees which are now huge. They have been told that they cannot go there and that they must comply with the regulations. The big difference between the current regulations and the ones that they replaced is that the

Government wants them to be enforced. The old regulations stipulated 16 kilometres. I apologise for the huge error of putting "19" into the Riebeling report. I did not notice that it was 19. I have always known that it was 16; it could have been a little printing error.

Mr Omodei: Your report gave the impression that the law was still in place. It is not in place. There are no restrictions on camping. You can camp anywhere you like with the permission of the landholder.

Mr RIEBELING: I do not know whether the minister has nothing between his ears, but his letter clearly sets out the position. He keeps saying that people can apply for permission and so forth, but the simple fact is that the Department of Land Administration controls the land. Does he admit that?

Mr Omodei: What have you done about that?

Mr RIEBELING: Does the minister admit that?

Mr Omodei: Has the member written to the Minister for Lands?

Mr RIEBELING: Is the minister's letter accurate? If his letter is accurate, why would anyone who received it -

Mr Omodei: You should ask DOLA, not me.

Mr RIEBELING: The minister has already answered. Does he know why he answered? His letter states that DOLA is not prepared to allow camping at those locations. Has he asked the minister? He must have.

Mr Omodei: Do you know why? It is because they are subject to a native title claim.

Mr RIEBELING: I see!

Mr Omodei: Have you been in touch with the Minister for Lands?

Mr RIEBELING: No. I am referring to the minister's letter and I am saying what the shire council is saying, which is exactly what the minister has said in the letter.

Mr Omodei: You are choosing to spread misinformation to a lot of old people.

Mr RIEBELING: I would welcome an interjection. What will happen this year when people camp at Cleaverville? What will the minister do about it?

Mr Omodei: They will need the permission of the owner of the land.

Mr RIEBELING: That is DOLA. As the minister has said in the letter, it will not give that permission.

Mr Trenorden: Pass the native title Bill and it might.

Mr Omodei: Are you in favour of passing the native title Bill?

Mr RIEBELING: Members are drawing an exceptionally long bow in relation to people camping at a beach and native title. The owners of the station have allowed access to Cleaverville for the past 20 years. They are Aboriginal; they own the land. There is absolutely no problem with access. There are problems up and down the coast when it comes to going through stations, but they are not owned or controlled by Aboriginal people.

Mr Omodei: So the member for Burrup says that they are allowed to camp on that station without permission.

Mr RIEBELING: No. The minister says that they are not. I am saying that they should be able to camp at Cleaverville.

Mr Omodei: You had better tell the Aboriginal owners.

Mr RIEBELING: The Aboriginal owners have no problem.

Mr Omodei: Perhaps we should check with them.

Mr RIEBELING: Has the minister checked with them?

Mr Omodei: No.

Mr RIEBELING: I certainly have. The Aboriginal owners of that area have no problem with camping continuing. Has the minister spoken to any Aboriginal owners?

Mr Omodei: No.

Mr RIEBELING: Why bring up that issue at all?

Mr Omodei: Obviously you have.

Mr RIEBELING: I have just told the House that I have.

Mr Omodei: So you are now the spokesperson on behalf of the Aboriginal owners of that station.

Mr RIEBELING: The minister is a goose. What an absolutely stupid thing to say.

Mr Omodei: I apologise.

Mr RIEBELING: The minister should apologise.

Mr Shave: Your wording was a little unparliamentary.

Mr RIEBELING: Was it a little unparliamentary?

The Government has a problem with these matters. We will bring forward legislation that will give the Government the ability to solve it. If the Government wants to take it, that is great, because most of those people come from conservative areas.

Mr Omodei: It will be interesting when you propose camping grounds that are subject to native title.

Mr RIEBELING: If the minister is serious about having effective legislation that assists people, he will accept the amendments that we will move in the near future.

MR BROWN (Bassendean) [6.25 pm]: I take the opportunity to speak to the amendment in the hope that it will bring the matter to finality. As a procedural matter, normally with motions of this nature, the Opposition would call a division if the amendment or motion were voted against by the Government. However, today we are sitting unusual hours because of a decision that was reached behind the Chair by the leader of government business and the leader of opposition business, so we are sitting at 6.30 pm, which is in the middle of the normal dinner break. The unwritten arrangement, as I understand it, is that -

Mr Trenorden: It has already been broken today.

Mr BROWN: I understand that, but the arrangement - people are still coming to grips with it - is that there will not be divisions at certain times, so we will not call a division on the matter. I do not want that to be misunderstood to mean that we are not calling a division on the matter simply because we do not feel strongly about it.

Mr Trenorden interjected.

Mr BROWN: Perhaps I can deal with the matter in the few minutes that I have. It is disappointing that the Government has dealt with the matter in such a way. A select committee is proposed. Members can make all the smart comments they want about matters that occurred earlier this week, but it is a serious issue. Frankly, when people write to me, whether they are from the industry or whether they are caravanners, to tell me about the problems, I will tell them that the coalition says that there are no problems with these matters, that they are perfect, that there is no need to consider legislative changes or planning changes, that everything is perfect and that there is no need to investigate. I will tell them that the Government often says that we should try to reach bipartisan agreement. We should not do that.

Mr Omodei: Why don't you raise those concerns with the Caravan Parks and Camping Grounds Advisory Committee? That is the relevant statutory advisory committee.

Mr BROWN: Wait a minute. I am raising this matter on the basis of representations made to me by ordinary constituents and the caravan industry association, which has repeated its representations in its newsletter. I have a newsletter from that association. It was not printed six or 12 months ago, it was printed this month.

If the proposal is voted down, as I understand it will be, my response to every person who raises the matter with me, whether it be a caravan owner or otherwise, will be that the Opposition twice proposed a select committee in this Parliament; that the Opposition proposed to try to deal with these matters in a bipartisan way and to look at the issue sensibly and rationally to try to reach agreement; that the Opposition was not playing politics with the issue, because it tried to set up a select committee knowing that on that select committee, as is normally the case, there would be three government members and two opposition members; and that the Opposition has tried to go down that path and tried to be cooperative. One could not be more open. I place on the record that this was a genuine attempt and I am bitterly disappointed that the coalition has rejected it.

Amendment put and negatived.

Motion Resumed

Question put and negatived.

Sitting suspended from 6.31 to 7.00 pm

NATIVE TITLE (STATE PROVISIONS) BILL

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Court (Premier) in charge of the Bill.

Clause 1.1: Short title -

Mr RIPPER: Opposition amendments will be on the Notice Paper tomorrow, which was when we expected the committee debate to occur. In the middle of the day we were advised that the Government wished to have two hours of committee debate on this Bill tonight. That has necessitated the circulation of amendments in the Chamber rather than their appearance on the Notice Paper, as would be desirable. That would not have occurred had our original understanding that the committee stage would occur on Thursday been implemented.

The CHAIRMAN: We are dealing with the Bill and not an explanation about why the amendments are not on the Notice Paper.

Dr GALLOP: Clause 1 raises an important issue; that is, what this Bill is intended to do. As was contemplated in the commonwealth Native Title Act 1993, this Bill is designed to make provision for the performance of functions under that Act by agencies of the State. Of course, that means the establishment of a tribunal or commission in Western Australia to carry out the functions currently being performed by the commonwealth body. That Act, as amended by the Commonwealth Parliament, makes provision for State Parliaments to establish alternative provisions to deal with particular classes of land. The Opposition believes it is appropriate that Western Australia establish its own regime to deal with native title. There are two ways to tackle this legislation. We could say we currently have a national native title system with federal legislation and a federal tribunal that deals with native title matters throughout the Commonwealth of Australia. Of course, it was always possible to adopt an alternative approach; that is, for the States to set up their own systems, working within the framework laid down in the commonwealth Act.

A point the Opposition has been making for years is that since the Native Title Act was first passed by the Federal Parliament in 1993 it has always been possible for Western Australia to set up its own institutions. However, the State decided to take head on the Mabo decision and introduced its own legislation as an alternative to the commonwealth legislation. Inevitably that led to a clash between the Commonwealth and the State, which found its way into the High Court of Australia. A large amount of taxpayers' money was spent in the process and the State lost the case 7:0. It has been possible for state institutions to have been set up since 1993, when the commonwealth legislation was passed. The Opposition favours that option and has been critical of the Government for not following that path. It became very clear that the Government did not choose to set up state procedures under the 1993 Native Title Act because it was opposed to that legislation.

It conducted a guerilla war campaign against it in Western Australia. Support for the idea of having state institutions is not new to the Opposition. We have held that view since the original legislation went through. The member for Kalgoorlie raised this matter when criticising the State Government for not establishing a state regime when it was entitled to do so under the federal legislation. Our position has been consistent: There is national legislation and a state regime should be set up in Western Australia. Therefore, we support the overall principle of the Bill to do that very thing. The important matter is that this should be done properly. I guess this is where we draw the line on the legislation. We accept the principle of having a state regime, but we argue that that must meet three tests. If it does not, the Parliament of Western Australia is not carrying out its duties. I will raise those tests in a further contribution to this clause.

Mr RIPPER: In speaking on the short title, I will make clear the approach the Australian Labor Party will follow as we proceed through the committee stage of the Bill.

The CHAIRMAN: I remind all members that we are discussing the short title of the Bill. Members must keep their discussions to the short title, and not vary.

Mr RIPPER: In dealing with this clause, I will outline the approach we will take to all of the clauses of the Bill. I will place on the record the fact that Labor voted for the second reading of this Bill. It intends to move amendments to the Bill, but not to oppose it. We hope that when the Bill reaches the other House, our amendments will be supported and that the Government will accept the Bill, as amended. I make these comments because I have been made aware that in tomorrow's newspaper, the Chamber of Minerals and Energy of Western Australia will be advertising on the theme that the ALP should not oppose the native title Bill just because it is in opposition. I agree with that sentiment that the ALP should not oppose the native title Bill. It is not; it is seeking to make amendments to the native title Bill. I also agree with the second part of the statement that the ALP should not do anything just because it is in opposition. It is not; Labor is seeking to move amendments to the native title legislation because we believe the Government has the legislation wrong and that the Bill must be improved.

We may be doing the Government a favour: Following the passage of our amendments, if they happen to be supported in this or the other place, this legislation may become more acceptable from the point of view of the determination which must

be made by the commonwealth minister and the Senate. If it fails to be acceptable to the commonwealth minister or the Senate, it will not come into law at all. The sentiments of the Chamber of Minerals and Energy must be supported. The ALP is not opposing the native title Bill and it is not moving any amendments just because it is in opposition.

Dr GALLOP: The fact of the matter is that we are establishing state provisions here. The short title - the Native Title (State Provisions) Bill - makes that very clear. That leads me to make some points about the conditions under which we are legislating in this Bill. Three tests must be established when we move from this clause, which establishes the overall framework, to each of the specific clauses in the Bill. The first is what I call the constitutional test. I am using "constitutional" in a fairly general sense. We now know that commonwealth native title rights are part of our system of law in Australia. They have become part and parcel of our understanding of property rights in Australia. The High Court of Australia has made it very clear, whenever it has had a chance to look at this issue, that those rights must be respected and meaningful in any legislative framework which they are put into. They must be consistent with the principle of non-discrimination as laid down by the commonwealth Racial Discrimination Act.

In evaluating the Government's version of state provisions, the first test is whether the property right encapsulated in this Bill is meaningful and in full respect of what the High Court has said this concept of native title means. If it is not and there are challenges to the legislation under the Racial Discrimination Act or any provisions of our Constitution, we must be sure that this legislation will not fall down as occurred in 1993, when the Government rushed a Bill through the Parliament. That is the constitutional test of the state provisions.

The second test is a specific legislative test. The state provisions have been laid down in this Bill by the commonwealth Native Title Act, as amended. That Act said that state provisions can be established so long as they are equivalent to certain concepts and principles. They are twofold: First, any tribunal established in Western Australia - the Government has chosen to use the words "native title commission" - must be the equivalent of the National Native Title Tribunal in terms of its independence, its status, and the functions it performs. In terms of the right to negotiate and the consultation processes to apply in Western Australia, equivalence is needed to certain principles laid down in that federal legislation. When we deal with parts 3, 4 and 5 of the Bill, we will look at those in more detail. The fact is that our legislation must be consistent with the federal legislation. We are very concerned that what the State Government is doing here is not consistent with the federal legislation. That is why, as we go through the committee stage, we will move amendments to make sure it meets that legislative test.

The third test is the political test; that is, that the legislation that we establish in this State has the support of all the stakeholders in Western Australia. That political test is important because if we establish a legislative framework for dealing with native title in Western Australia that does not encourage people to use it, they can always go down the path of a common law action. Once actions are initiated within the courts, under the process that is set up it is difficult for development to occur until that process is completed. That leads to a delay in the development processes. If people chose to go through the courts, it is always expensive. As a Parliament, we must remember that this option is always open to people, particularly indigenous Australians. We must encourage them to use the native title provisions we are setting up. We must give them incentives to do that by embracing them in the process. Unless we do that in this legislation, we may be setting up a system that will encourage litigation in costly and lengthy disputation or processes in the courts that will not resolve the matters. Therefore, in establishing state provisions in Western Australia, we must meet that constitutional test, the non-discrimination principle, the principle of meaningful native title rights; we must meet the legislative test as set up by sections 207 and 43 of the Native Title Act passed by the Commonwealth Parliament so that there is equivalence between the state provisions and the federal law. In addition, we must pass the political test, which is the test to encourage all people to use our legislation with goodwill and with the desire to reach conclusions and agreements on the basis of it, rather than to go down the alternative path of court actions which are timely and costly.

Mr COURT: I will not respond to some of the broad comments that have been made. The Leader of the Opposition said that the Government did not establish a state tribunal or a state commission under the original legislation, and he implied it was an act of bastardry to try to engage in guerilla war. The simple reason that we would not set up a state tribunal was that the legislation was unworkable. Why should we have been the patsies trying to run a state regime under legislation that we knew was unworkable?

Dr Gallop: Therefore, the Government engaged in guerilla war. What I said was absolutely right. I was spot on.

Mr COURT: We did not engage in guerilla war at all. We did something which embarrassed the Labor Government: We operated under the legislation.

Mr Ripper: In the spirit of the legislation.

Mr COURT: In the spirit of the legislation, and it quickly brought to a head the fact that the legislation did not work.

Mr Ripper: I do not think the Government operated with good faith in the spirit of the legislation.

Mr COURT: We did. I realise the Opposition has some amendments of which it will give notice. We have seen a first draft of the amendments. I believe there will be some changes.

Mr Ripper: There are some minor changes. What was sent to the Government electronically are, in substance, our amendments.

Mr COURT: That is fine. The Government will be moving some amendments.

Dr Gallop: That is interesting.

Mr COURT: I told our people I wanted to see the final format. I will take the word of the Deputy Leader of the Opposition that the Opposition's changes are minor. We do not support the Opposition's amendments on the right to negotiate provisions on leasehold lands. The Government intends that the commission be independent. We have considered the amendments that the Opposition has provided, and we are prepared to accept some changes to ensure that the independence of the commission is made clear. I will provide the amendments that we intend to move to address that issue.

Mr Ripper: Will the Government's amendments be on tomorrow's Notice Paper?

Mr COURT: We will give the Opposition the amendments, and the explanatory notes to them, tonight. Many of them are consequential amendments.

The CHAIRMAN: Has the Premier given the amendments to the House?

Mr COURT: No. I do not think they will be debated tonight.

Mr Ripper: We can arrange that.

Mr COURT: That would be great. If they are debated tonight, I will be the happiest person.

Mr Ripper: No. We can arrange not to debate them tonight, if that is what the Premier wants.

Mr COURT: I think the Opposition has arranged that anyway. There were some amendments on the judicial review issue. Although we do not believe it is necessary to amend the access to judicial review provisions of the Bill, we are prepared to make changes to remove any ambiguity that some people think might exist. We are not prepared to accept the Opposition's proposals concerning leasehold land.

Dr GALLOP: We look forward to seeing the Government's amendments. We are encouraged by the fact that we will see amendments from the government side. I return to the debate that we have had on establishing state provisions in Western Australia under the federal Native Title Act. When we first saw the Government's legislation, we said that it should be changed because there were problems with it. One of our concerns was the status and independence of the commission. Other concerns included the meaning of consultation, the right to negotiate, and a range of issues that we think are important.

We were told by some people that it was absolutely important that this legislation go through the Parliament without amendment. Indeed, we were told that the legislation was already a compromise on a compromise and that no change to the legislation would be accepted. The Opposition has said all along that that is not the way to approach legislation; we must consider it in light of the Constitution, the political issues and what the commonwealth legislation says in order to ensure that we come up with good state law. The notion that we must accept what the Executive has given us and pass it through the Parliament is not the way this Parliament should proceed. Therefore, we feel that our position has been vindicated by the Government's saying that it will move amendments to its legislation and that it will seriously consider our proposals.

I will draw an analogy. In 1993 when the Commonwealth Parliament was passing federal native title legislation, the coalition was in opposition. That meant that the numbers in the Senate would be dependent upon the minor parties and Independents and the opposition coalition party standing together. The coalition opted out of the debate. Therefore, the Native Title Act 1993 was the result of negotiations between the Government of the day, the minor parties and the Independents. That is not the approach that should be adopted here. The Opposition believes that members should get in there and argue their case. No-one should opt out of the debate. Therefore, we have got in there and considered the Government's proposal. The Government is the Government; it has put its legislation on the table. We accept that. However, as an Opposition, it is our responsibility to examine it. Our view that this legislation should be amended was confirmed in the first half hour of debate on this Bill. We are encouraged by the Government saying it will seriously consider our amendments and we are encouraged by the Government saying it will move amendments. That gets debate off to a good start.

Mr Court: We have looked at the amendments the Opposition has provided to us, and we understand the general thrust of what the Opposition is trying to achieve. I say at the beginning of the debate that the Government cannot accept the main provisions that the Opposition is pushing for on leasehold land. In some other areas, we cannot accept the way the Opposition has framed the amendments. However, we are prepared to make some changes which would satisfy the Opposition's concerns. There is a unique nature to this debate. It is the only Bill of which I am aware which has to comply with a federal framework. I find that quite unique in trying to tailor something that has to get a tick at the other end.

Dr GALLOP: I conclude by saying that we are engaging in debate, we are considering the clauses, and we will consider amendments. That is the way we should be treating this legislation.

Mr RIPPER: I also welcome the news that some opposition amendments will be supported.

Mr Court: I did not say that. I said we would support the principle.

Mr RIPPER: I welcome the news that the Government will support the principle of some opposition amendments, perhaps with its own drafting, and that the Government will be considering its own amendments to this piece of legislation. This news shows that calls from outside Parliament for the Opposition to pass this legislation unamended and in a great hurry were misplaced.

Mr Court: Who said that?

Mr RIPPER: I am referring to a newspaper report of a Chamber of Minerals and Energy statement in which it called for Labor to pass the legislation unamended and to give it a speedy passage through the Parliament. The news that the Government will support the principle of some opposition amendments shows that such a call for the speedy passage of legislation was misplaced.

The CHAIRMAN: I remind all members that we are dealing with the short title of the Bill. We have had a enormous discussion on the short title.

Mr CARPENTER: Before we move into the specifics of the Bill and a clause-by-clause analysis and dissection of the Bill and the attempted insertion of amendments, we are trying to get some sort of reciprocal understanding of how the debate might proceed and the basis upon which it will proceed. So far this has gone very well, even though strictly speaking we may be wandering somewhat from the 13 words that constitute the short title.

The CHAIRMAN: I remind the member for Willagee that we are discussing, if he cares to expand on it, the short title of the Bill. If he has any objection or any comment to make about that clause, that is where he should be directing his attention.

Mr CARPENTER: That is where I am directing my attention. One of the shortcomings that has beset the debate on the native title issue right from the beginning is the lack of mutual understanding of where the different stakeholders in the debate are coming from, if I might use that term. Pursuant to the point the Leader of the Opposition made about the necessity for the entire Bill to be able to pass the political test, could the Premier tell us, before we go into the rest of the Bill and the other clauses, what consultation the Government has been involved in with the various stakeholders in this issue in Western Australia when drafting this legislation? It is most important that all stakeholders in the issue be given the opportunity to support the legislation, so that we can deliver workable legislation through the Parliament. For that reason it is important for the Government at some stage or other - now is the ideal time - to outline to us what formal or informal consultation process has occurred with the various stakeholders. I am not asking for a blow-by-blow description. It is obvious that the Government has had considerable consultation with the mining industry. Could the Premier outline what formal or informal consultation the Government has undertaken with, for example, the indigenous stakeholders in this debate.

The CHAIRMAN: I remind the member for Willagee that this is not the place to be outlining the Government's position on that subject. All I ask the member to do is to remember that we are dealing with the short title of the Bill, which is that "This Act may be cited as the *Native Title (State Provisions) Act 1998*". That is what we are discussing; it is not a second reading debate.

Mr BROWN: With respect to the title, the member for Willagee asked the Premier what consultation had taken place on the Bill, obviously including the title of the Bill. I am certainly interested in the Premier's answering the question. It may be that there was no consultation. It seems that it is not an unreasonable question for the Premier to answer.

Mr COURT: The member asked what sort of formal or informal negotiations and so on had occurred. Obviously on the issue as a whole, over six years we have been talking to many people, but with this piece of legislation I have a list - I do not think it is confidential - showing the different groups with whom we have been liaising and the submissions that have been provided.

Mr Brown: Are these the submissions on the public document that you released?

Mr COURT: Yes. Obviously we have had meetings, negotiations and so on with many different groups. I will have that list copied and make it available.

Clause put and passed.

Clause 1.2: Commencement -

Mr RIPPER: This clause relates to the provisions for the commencement of various clauses of this legislation. There are a number of different subclauses to this unusually complex commencement clause. The reason appears to be that some clauses of this legislation cannot come into effect until determinations are made under the federal Native Title Act in relation to those parts. Subclauses (3) and (4) deal with such a determination. What process of discussion has been followed with the Commonwealth Government on the provisions of this legislation? Has there been a process of negotiation between the

Commonwealth and the State on the terms of this Bill in order that this commencement clause can operate effectively with a trouble-free determination by the commonwealth minister? Has the Commonwealth already agreed at either ministerial or official level that the provisions of this Bill as drafted will meet the requirements of the Native Title Act and allow the minister to issue a positive determination without threat of overturning either by judicial review or by the Senate disallowance? How many different drafts has the Bill been through in order to meet those commonwealth requirements?

Mr COURT: We have done seven drafts of the legislation. If we held the debate off for another year, because of the way the Commonwealth deals, regardless of who is in government in the Commonwealth, it would keep wanting changes. I am talking about minor changes and not major changes to legislation.

Mr Ripper: Is the Commonwealth still wanting changes now?

Mr COURT: Yes, I can assure the member. If he has had any dealings with the federal native title legislation, as I said to the Leader of the Opposition, he would know that the unique aspect of this Bill is that it must be ticked off on the other side. On the broad principles, we are assured that it has conformity, but in the detail of some of the clauses, we can argue until the cows come home about the format. The member asked if it has been ticked off. I said in answer to a question that, because the federal Attorney General must decide on the legislation, it is seen as inappropriate that the Commonwealth Government formally agree to legislation before it has gone through our Parliament. The Bill must go through the Parliament here and the Commonwealth Government must be given the document that will be considered.

Mr Ripper: Can you not get it in advance?

Mr COURT: No, an advance determination cannot be obtained. As I said, in principle, it has conformity with what the Commonwealth Government wants to achieve.

Mr Ripper: And to get a nod and a wink.

Mr COURT: A nod and a Wik.

Mr Ripper: A wink.

Mr COURT: No, a Wik. I must say that even when the Commonwealth Government was drafting the original legislation and the most recent amendments to the federal legislation, people said glibly that this was complex legislation; and they are right. I said to the member that we are prepared to make some changes to guarantee the independence of the commission, and that relates to the complexity of the legislation which means consequential amendments will need to be made. Basically the amendments will be made in two main areas; firstly, judicial review and, secondly, the independence of the office. A number of minor amendments have been requested by the Commonwealth - when I say "the Commonwealth", I refer to the Wik task force - and the member will see the pedantic manner in which some matters are expressed without changing the overall effect of the provisions. In answer to the member's question, the Wik task force is a body that we have been dealing with regularly, but during the federal election, there was a hiatus when it went into caretaker mode. As the member would understand, no-one in the federal bureaucracy was prepared to advance the issue during the caretaker period or in the short time after the election when the results were not fully known. We have been finalising this legislation during a federal election campaign. In answer to the member's question, I cannot say. It would not be proper for the Commonwealth to give a tick to something when the person one would expect to give the tick, the commonwealth Attorney General, is the officer who reviews the legislation when it goes across.

Dr GALLOP: What the Premier has told us is very important to this legislation. Obviously, no provision is made in our system for the Commonwealth to give what is described in some jurisdictions as advisory opinions. For example, in some places one can go to the court and ask for an advisory opinion about something to get an idea whether, if one were to legislate in a certain way, it will survive the constitutional test that court will provide. It would be a problem for the Attorney General at the commonwealth level to say he agrees or disagrees with the legislation because he will be subject to a due process of consideration himself when he makes his decision. Unless he goes through that due process, he might find himself falling short in some areas. We now know that courts all over Australia regard due process as a very important principle. There is no doubt that the Attorney General will not tell us whether he agrees with the Bill. Another process is occurring; that is, beneath the minister are departmental people involved with what the Premier described as the Wik task force - the commonwealth public servants and the commonwealth legal advisers who are constantly monitoring what is happening in all these issues. Obviously they will be checking, putting forward points of view, and considering drafts. As we said, we have been informed that seven drafts of this legislation have been considered.

This lead us to the conclusion which I outlined in the second reading speech on the Opposition's position on the legislation; that is, we would like to see the correspondence between the Commonwealth and the State so that we, as a legislature, have a feeling for what the Commonwealth will have in mind when it makes a determination on this matter. It is not just the words; it is also the context of the words, the processes, and the implications that are drawn which will finally determine whether the Attorney, on the one hand, and the federal Senate, on the other, support the legislation. It was a very important discovery tonight when we heard that, firstly, there were seven drafts, and, secondly, the Commonwealth is still making suggestions -

Mr Court: To have seven drafts is not unusual for any legislation.

Dr GALLOP: I am simply saying that it is important to know that has happened and that the Commonwealth is still making suggestions about the legislation. The Premier says it accepts the overall principle.

Mr Court: No, I have said that the amendments are mainly minor drafting amendments as a result of little things the Commonwealth wanted done. When they are seen, it will be clear that they are minor. The two main areas that we have addressed, since the Opposition's amendments have come in, cover the independence of the office and the question of judicial review whereby some concerns were raised. We do not agree with it, but we are prepared to get rid of any uncertainty on that issue.

Ms MacTiernan: Are you saying that the issues that were raised in our amendment have gained some support at a federal level?

Mr Court: No, you were not here when I started.

Dr GALLOP: The point has been made that the Government is accepting the principle of some of our amendments.

Ms MacTiernan: I was wondering if it was also getting federal support.

Mr Court: No.

Dr GALLOP: The Opposition is very keen to see the correspondence which took place during the Federal-State negotiations so that it is in a position to legislate properly. Last week, members on this side were appreciative of the fact that the Premier tabled in this Parliament all of the correspondence on the Titles Validation Amendment Bill with respect to the schedule of interests. We are reflecting on that material. It poses issues that we must address in the other House when we look at that Bill. For the legislature to work properly, it must have good information. The Commonwealth-State correspondence would help us enormously.

I return to the point I made initially. We are serious about this Bill. We want this Bill to pass through this Parliament and come out at the other end and we want it to be something of which our Parliament in Western Australia can be proud. We are not in the game of opposing it as did the coalition in 1993. We will argue about each clause to try to make it work properly. In order to do that, we think we must have that correspondence.

Mr RIPPER: In response to the Premier's question, I indicate that the Chamber has advised the Opposition that the amendment should be redrafted to constitute a new clause 1.3. I hope that is the amendment which the Premier has before him. Before I move that new amendment, the Chamber must conclude its deliberations on clause 1.2. I will take up the issue of the Premier's discussions with the Commonwealth and the States. I understand that at one stage, the Commonwealth sent a lengthy letter to the State about the deficiencies in the Western Australian Bill, and with suggested modifications. On one occasion, did the Premier receive a letter of approximately 60 pages on this matter?

Mr COURT: I have not counted the pages of every letter, but I would not be surprised! I am prepared to go through all the correspondence and see whether it is appropriate that it be provided. That correspondence is quite extensive, as the member would imagine. I am told that we have received letters of up to 12 pages. However, I do not believe that is relevant. Because of the complexity of the legislation, there has been, as with the titles validation legislation, a lot of correspondence about these negotiations.

I have had some difficulty in working out the amendment, which is page 2, after line 10, to insert the following -

Mr Ripper: There was a technical error, which has now been corrected.

Mr COURT: That amendment has just been given to me. The member for Belmont is suggesting that we deal with clause 1.2, and then the amendment.

Mr CARPENTER: The Premier has provided us with the summary of submissions received on the Western Australian draft, for which I am grateful. That was in response to my questions about what consultation had taken place with stakeholders in Western Australia, particularly indigenous stakeholders. That is an important issue. The lack of consultation was perceived as a weakness in the drafting of the Howard-Harradine legislation and put many Aboriginal people offside. Has any attempt been made to address that potential shortcoming in the state legislation? Numerous submissions have been made, the vast bulk of which are simple form letters in three different categories. Bearing in mind that the word "consultation" will attract a lot of attention in this debate, what, if any, consultation, both formal and informal, apart from the receipt of written submissions from various groups, has taken place with Aboriginal people in the working up of this legislation?

The CHAIRMAN: Order! I remind members again that they must address the subject of the Bill and not ask general questions about general clauses. We are in committee, and we are discussing each clause. We are not in the second reading debate.

Mr CARPENTER: Mr Chairman, if you want me to, I will stand up at every clause and ask specifically what consultation, formal or informal, has taken place on every word of every clause, and the Premier can give a general response. It is up to you, Mr Chairman. We can sit here for months, with my going through the clauses line by line and asking what consultation has taken place with indigenous groups, or we can take a practical view, which is the one that I have taken.

The CHAIRMAN: The member for Willagee is entitled to speak as many times as he likes, because any member can speak for five minutes, but I remind all members that because we are dealing with clause 1.2, commencement, I may rule out of order a question about who was consulted about certain matters, because that has nothing to do with the commencement of the Bill.

Mr COURT: I do not know for what detail the member is asking, but we have had two lengthy meetings with the indigenous working group. We have met with the Kimberley Land Council, which basically took the "We will give you heaps, but we want to remain friends" approach, and with the Aboriginal Legal Service and the Aboriginal and Torres Strait Islander Commission. We have also briefed four land councils. When I say the indigenous working group, that is basically the legal officers who have been taking an interest in the legislation. I do not have a list of the specific industry groups with which we have consulted, but in broad terms we have spoken with the mining, farming, fishing, timber and tourism industries.

Mr Carpenter: Are you talking about the time period during which this legislation was worked up and drafted?

Mr COURT: Those are the meetings with regard to this legislation. When the amendments went through the Federal Parliament, it was not necessarily those groups, but the equivalent of those groups at the national level. We have obviously had many meetings. The native title legislation industry has a growing number of lawyers who are representing the different groups. The Federal Government's Wik task force also has a lot of legal representation. I have mentioned the hiatus that occurred after the recent federal election. The Wik task force did not accept the wording that we had for the judicial review area. It wanted us to word the legislation in a specific way. We have been negotiating with that task force. That does not change the fact that there is access to a judicial review, but in an attempt to expedite the matter, we have been prepared to make amendments that we know will please that task force. We could have argued with it until we were blue in the face, but why bother? We want to get that wording right, because we have a unique situation with the legislation. Members opposite have spoken about what they want. All the different groups to which we have spoken have come up with different ways of handling this issue. We are trying to deal with this complex issue as smoothly as we can. That does not change the principle that we have already accepted with the legislation.

Mr RIPPER: I am interested in two issues. This commencement clause has seven subclauses. I imagine that means that different parts of the legislation will come into effect on different days. Secondly, this legislation will need to go through a process after it passes the State Parliament. There will be a commonwealth ministerial determination and provision for a Senate disallowance and so on. Can the Premier give us some idea of how long it will take this legislation to come into effect in its totality following the passage of the Bill through the State Parliament? What is the gap between conclusion of this State Parliament's consideration of the legislation and the legislation coming into effect?

Mr COURT: It is a frightening answer. The member is right about different parts of the Act coming into effect at different times.

Mr Ripper: Would that be your intention?

Mr COURT: It is the intention in some sections. The Act will go to the federal Attorney General. He will conduct a consultation period which we believe will take at least three months. When he is satisfied, he will table a determination and there will be a 15-day disallowance period. From the time the legislation goes through this Parliament it could be six months before we know if it is accepted.

Clause put and passed.

New clause 1.3 -

Mr RIPPER: I move -

Page 3, after line 2 - To insert the following new clause -

1.3. Objects of Act

The main objects of this Act are -

(a) to provide for the recognition and protection of native title;

(b) to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings;

(c) to ensure that Western Australian law is consistent with standards set by the *Native Title Act 1993* for future dealings affecting native title; and

(d) to establish State-based mechanisms for deciding claims to native title that are complementary to, and consistent with, the mechanisms established by the *Native Title Act 1993*.

That amendment is based on section 3 of the Native Title Act which in part reads -

The main objects of this Act are:

(a) to provide for the recognition and protection of native title; and

(b) to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and

(c) to establish a mechanism for determining claims to native title;

A lot of debate in this State about native title has apparently operated on the premise that native title is a problem. The premise has been that native title is something which is a nuisance, an impediment or a serious difficulty for life in the Western Australian community. The debate has not often enough recognised that native title is a right of Aboriginal people, that we are talking about the property rights of Aboriginal people and that these rights are not something which have been recently invented and given to indigenous people. The debate does not often enough recognise that what has happened is that at long last this common law jurisdiction has recognised the survival of Aboriginal property rights as other common law jurisdictions recognised a long time ago. Part of the object of native title legislation must be to ensure legislative recognition and protection of native title rights. It is unfortunate that the debate has been conducted in this State without sufficient emphasis of that.

In our State legislation on native title we should have an objects section to establish the philosophy which is supposed to underlie the Act and which will provide some guidance about the purpose of the legislation to those people who are charged with administering it. The purpose of the legislation is not just to deal with native title as a problem for everyone else. The purpose of the legislation is to recognise and protect rights which should have been recognised and protected long ago as they were in other common law jurisdictions. This is not a controversial amendment. It is based on the objects of the Commonwealth Native Title Act. Those objects were left unamended by John Howard when he produced his amendments to the Native Title Act. I hope the Premier will not have a problem with agreeing to this amendment.

Dr GALLOP: I support the inclusion of an objects clause in this Bill. As the Bill currently stands, the preliminary section, which deals with the commencement, points out that the Act binds the Crown and then immediately goes into the interpretations section which defines some of the terms used in the Bill. An interesting issue with native title is people's philosophy and attitude to it. There are different views in our community on this question. Some people hold a view that the native title issue is a "land management" issue and all we must do is regularise the land management arrangements in connection with that right. That is a major part of the native title debate and a major proportion of what we are doing in legislating. However, another aspect of native title cannot be ignored; that is, what we are doing in Western Australia is putting the concepts which have been accepted throughout the Commonwealth of Australia, by both the Commonwealth Parliament and the High Court, into legislation for the first time. We are establishing a new way of looking at our State and reflecting a new way that our nation looks at itself. What is that? It is the rights which existed before white settlement and were not obliterated by that white settlement. The British Crown may have established sovereignty over the Australian landscape, but it did not take over all the land. In order to take over the land, it had to do something specific through parliamentary and executive action to endorse a change of ownership. The pre-existing rights are still with us. This is an important thing which has happened in Australia. By recognising those rights we have said that the indigenous people are part of our nation and have equal status with our property rights. We are doing the same thing in Western Australia. We should be saying the same thing with this legislation. It is important for us to have this section in the Act. Rather than simply establish the form of native title, it gives it some content and provides some of the overall framework and commitment, the basis upon which this Act will be interpreted.

To draw an analogy, many constitutions have a preamble to them in which a framework is established within which we interpret the constitution. We had the ridiculous situation at the Constitutional Convention last February at which we drew up a suggested preamble, and then an argument ensued about whether they were a good thing and a clause went in saying "Whatever is in this preamble will have no impact on the interpretation of the Constitution". That was one of the biggest copouts I have ever seen.

By including these objects in the Act we are saying that we believe in native title and that this legislation is not about only land management or practical solutions. That is part of it, but it also has the spirit of the decision of the High Court and of the commonwealth legislation weaving its way between the words, colouring the interpretations and putting the legislation into a historical context. We do that by saying the objects of the Act are to recognise and protect native title, to give it a meaning, to establish ways in which future dealings affecting native title will have standards set for them and to ensure that what we do is consistent with the commonwealth Native Title Act. All of that adds to what we are doing as a State and sends

a good message to our indigenous people that we are serious about native title. This amendment will add significantly to the quality of the Bill we are passing through the Parliament.

Mr COURT: There are four subclauses in this amendment. Proposed subclauses (a) and (b) are the objects of the native title legislation. They do not need repeating. Subclause (c) will ensure that Western Australian law is consistent with standards set by the commonwealth Native Title Act for future dealings affecting native title. That is covered in the earlier clause. We must do that. We cannot get the approval unless it is in compliance. As I said, that is unique about this legislation. In negotiations with the Federal Government, we must conform with all the parts of the federal Act, which is complex. That is what takes the time. As I said, although in our dealings with the Federal Government we had a couple of months' hiatus during the federal election campaign, tick-tacking is necessary to ensure that conformity.

I cannot quite follow the fourth part of the amendment. Our state regime does not decide the claims; it is inappropriate. Under the Native Title Act, claims are determined by the Federal Court. We have no intention of duplicating the Federal Court's function.

Mr Ripper: Note the words "complementary to".

Mr COURT: The State's role regarding claims will be limited to administrative process, applications of the registration test, notifications, mediations, etc. Members opposite have got it wrong with subclause (d). We have no intention of duplicating the Federal Court's function.

Mr RIPPER: It is always an interesting debate about what objects add to a piece of legislation. Some say there is no point in putting objects in legislation because they have no more effect than the provisions of the specific clauses that follow. Some raise an argument that seems to be contradictory; that is, they mean what they say in the specific clauses and if we include objects that are at all inconsistent with the specific clauses we might create legal uncertainty or the possibility of legal action.

Those arguments do not stand up against the argument that we should be putting to people who read the Bill that this is what it is about; this is a summary of the purposes of the legislation. The Premier has already indicated that native title legislation is complex. He is right; I agree with him on that at least as someone who has studied the clauses and how they interrelate. The legislation is complex.

Mr Court: It is complex, but we are trying to second read another Parliament.

Mr RIPPER: I agree there are different sources of that complexity. We should be able to say to the reader of the legislation that these are the values or high purposes for which we have produced this complex piece of legislation. We especially should say that in this State because of the nature of the debate on native title. It is important to say that this Parliament is not only dealing with native title as an obstacle to the aspirations of non-native title holders in the community, but also as a property right that has at long last been recognised and which should be protected in future dealings. Both the Keating and the Howard Governments have agreed with placing objects in native title legislation. Our federal colleagues presumably had the option of amending the Act to delete the objects if that was what they wanted to do, yet they have not done that. I cannot see how the Premier finds it so difficult to adopt what his federal colleagues have adopted and what seems to be unexceptional in terms of principle.

Mr COURT: The member has not explained the matter of deciding claims. Why include something that is being handled by the Federal Court?

Mr RIPPER: I will read the full section to which the Premier is objecting -

> (d) to establish State-based mechanisms for deciding claims to native title that are complementary to, and consistent with, the mechanisms established by Commonwealth the Native Title Act.

I do not regard the Premier's argument as destroying the amendment I am seeking to move. The Premier has read only the first half of the amendment, which says "to establish state-based mechanisms for deciding claims" and said it does not happen; it is done by the Federal Court. The next part provides for that because it says "that are complementary to, and consistent with" the federal mechanism. There is no problem with removing this part of the objects. If the Premier does not like proposed subsection (d) he should move an amendment to delete it and we can run with (a), (b) and (c) as the objects of the Bill. We would think we had made a significant advance. I would then wonder what objection he had to the amendment.

Mr COURT: I have plenty of objections to the amendment. We do not regard it as necessary to put in proposed paragraphs (a) and (b) because those provisions are already in the main legislation.

Ms MacTiernan: You mean the federal legislation?

Mr COURT: Yes. There is no mechanism in the Bill for deciding claims.

Mr Ripper: We have mechanisms which are complementary to the federal mechanisms.

Mr COURT: I am sorry, but the member for Belmont specifically talks about deciding claims. We do not have a mechanism in the Bill for deciding claims. I do not know why he has raised the issue.

Mr Ripper: I raised the issue of commonwealth complementary mechanisms, about which you yourself spoke only a few moments ago.

Mr COURT: They cannot be complementary because they are not in it.

Mr Ripper: You mentioned some just a moment ago.

Mr COURT: I said that there are no mechanisms in the Bill for deciding claims.

Mr Ripper: Then you spoke about how state bodies are involved in claims in some respects.

Mr COURT: I have just explained that our role is limited to the administrative processes such as the application of the registration test, notification and mediation, but we do not decide the claims.

Mr RIPPER: The very things that the Premier mentioned are the mechanisms which are complementary to and consistent with the mechanisms established by the NTA. I do not think that there is a technical problem with the amendment. The Premier has just mentioned some aspects of state operations which are covered by the wording of proposed paragraph (d). The Premier has also argued that proposed paragraphs (a) and (b) are in the commonwealth legislation. That is the commonwealth legislation. That is the view of the Commonwealth Parliament. That is the philosophy that it has endorsed. What about us? As a State Parliament, will we remain silent about the philosophy which underlies the legislation? Are we as a State Parliament not to say that we want to recognise and protect native title in the legislation?

Ms MacTiernan: It seems inconsistent with the general philosophy of States' rights and ensuring that States are properly recognised and have their own regimes.

Mr RIPPER: Precisely. I would have thought that the Premier would have wanted us to have made a declaration about the philosophy which we think should underpin legislation governing native title in this State.

Dr GALLOP: I seek clarification and advice from the Premier. Under section 207A of the Native Title Act, it is possible for the commonwealth minister to -

> . . . determine that a court, office, tribunal or body (which court, office, tribunal or body is called the ***body***) . . .

That is legislative terminology -

> . . . established by or under a law of a State or Territory *is a* ***recognised State/Territory body*** if the State Minister for the State, or Territory Minister for the Territory, nominates the body to the Commonwealth Minister for the purposes of this section.

It is possible for any State to establish not just a Native Title Commission but a fully fledged court to deal with the issues. The Premier correctly pointed out that he has not chosen to do that in this case, but at a future time that may be something that this State would wish to do. He has limited the legislation to dealing with a less comprehensive state-based system than could be established by the commonwealth legislation.

We have tried to say that the objects of the legislation are -

> . . . to establish State-based mechanisms for deciding claims to native title that are complementary to, and consistent with . . .

those set up by the NTA. I think the Premier is telling us that he has chosen not to do that.

Mr Court: That is right.

Dr GALLOP: Therefore, in our legislation that clause would not be relevant, but whether or not it is relevant in a general sense, I would still wish to think about it. As the member for Belmont said, after a preliminary look at the issue from the Opposition's point of view, we certainly hold strongly that we need objectives in the Bill. We think that that is important. This is the State Parliament. We are passing state legislation. We should say what we are doing in terms of its principles and details. For that reason, we strongly stand for proposed paragraphs (a), (b) and (c). There is a bit of argument about proposed paragraph (b). I seek clarification from the Premier on whether my interpretation of the situation is correct and we will consider our position on paragraph (d).

Mr COURT: The Leader of the Opposition's explanation is basically correct: We could have done that, but we have chosen not to do it. That is why, as I have said, we will not support the amendment. We have legislation which does not have a state mechanism for deciding claims. If we had decided to duplicate, in effect, the role of the Federal Court of Australia -

Dr Gallop: I think that Queensland is doing something like that.

Mr COURT: South Australia has set up a special court that could fulfil that role. The Leader of the Opposition is right: We could have, but we have chosen not to. The amendment does not make sense because we have not chosen to duplicate the Federal Court.

Mr RIPPER: Perhaps the Premier can explain why clause 2.2, which is headed "Commission can be a recognised body under section 207A(1) of the NTA", is in the Bill. The Leader of the Opposition read out section 207A(1). The Premier appears to want to take advantage of section 207A(1) of the NTA without actually designating the Supreme Court to take advantage of the Federal Court's functions. Perhaps I will put it in a slightly less aggressive way: Does clause 2.2 allow the Government to move into the area of claims determination if at some future date a State Government decided to make that move? Under the legislation, would a Government be able to make that move without going back to the Parliament?

Mr COURT: Under section 207A(1), it is possible to cover a number of different tasks. We are using it to cover only one part of it, and that is to cover future acts. That is the one part of which we will take advantage. If we wanted to set up a separate court we would need new legislation to make that possible, and then a claimant would be able to choose whether to go through the Federal Court or the body that we set up. That is one reason that we have not gone to the trouble of setting up a duplicating body.

Mr Ripper: Are you confirming that clause 2.2 does not allow you to establish a claims-deciding mechanism at state level?

Mr COURT: It is in the Bill purely as a mechanical provision to enable us to use that part which covers future acts.

Mr Ripper: I understand the purpose for which it is there, but I am trying to elucidate from you the full scope of the legal authority given by that clause in the state Bill. It might give you power to establish a claims-deciding mechanism, which would then mean that proposed paragraph (d) of my amendment would be even more justified than I believe it to be at the moment.

Mr COURT: We could not get a full approval under section 207A of the federal Native Title Act. It contains a number of provisions that must meet the federal requirements. We simply do not have them in the Bill. We would not be able to achieve what the Opposition might want to achieve.

Dr GALLOP: I return to paragraphs (a), (b) and (c) of the amendment. I am still somewhat puzzled that the Government does not appear to want to accept our amendment to include objects in the Bill. I repeat that one of those objects is to provide for the recognition and protection of native title. The Premier has said that that has been done in the commonwealth Act. It may very well be, but we are dealing with state legislation. Even though that state legislation must be consistent with the commonwealth Act, the state legislation will be subject to interpretation. It will set the standard for the way this issue will be dealt with in this State. As legislators, we should include that object in the legislation. It is a statement of principle and commitment, and it clearly shows what we are doing here in a much more fundamental way. The object set out in paragraph (b) is to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings. It is very important that we set a standard in this legislation and we must make that clear.

The object set out in paragraph (c) is to ensure that Western Australian law is consistent with standards set by the commonwealth Native Title Act for future dealings affecting native title. It makes explicit what we are doing and it clearly indicates the spirit in which we are acting in this case. Although the Premier is theoretically correct in what he has said, that we are not adding anything to this legislation by inserting in it some of the objects in the commonwealth Act, from a state point of view we are doing something that is very important: We are making clear what our state legislation is about. We should accept that very important principle. I have yet to hear a reasonable argument from the Premier for why we should not do that.

Ms MacTiernan: If we had the intention of the object enshrined in the legislation, it would be a very ugly set of words.

Dr GALLOP: That is the problem we have. If these words are not put into legislation, it gives an impression that perhaps the intention is something else. I think that is what the member is getting at by way of interjection. This is an important amendment. It is clear that the Government is not happy about it; however, if we do not put it in the legislation, we are not sending a good message about the principles and commitments we have in this legislation.

Mr RIPPER: Madam Deputy Chairman, in the interests of genuine debate in the Parliament, I want to explore how we might deal with this amendment. The Premier has advanced an argument that paragraph (b) of the amendment is not relevant to the purposes of the Bill. I have argued that there is some relevance. I can see there is also some validity to the Premier's argument. I seek some advice on whether I should move a further amendment to the amendment; whether paragraphs (a), (b), (c) and (d) of the amendment could be put separately; or whether paragraphs (a), (b) and (c) could be put in one bundle and paragraph (d) could be put in another. I seek that advice as we decide in the spirit of proper debate how to respond to the answers given by the Premier.

The DEPUTY CHAIRMAN: Order! Two options are available to the Deputy Leader of the Opposition: One is that by leave of the Chamber, he can withdraw the amendment and resubmit a new one with paragraphs (a), (b) and (c). Secondly, if he wishes, he can amend the amendment. The easiest way is to withdraw the original amendment and resubmit it.

Dr GALLOP: If it is the Government's intention to oppose this amendment, it is an academic exercise. The amendment might as well be put in full and be voted on. Paragraph (d) contains certain remaining issues which must be looked at. If this amendment was passed, we would look at those issues in the Legislative Council. From the point of view of the debate tonight, if the Premier is indicating that the Government will oppose the amendments, we are disappointed; however, I do not think it will help by our amending the amendment. We might as well vote on this amendment and move on in the debate.

Mr BROWN: The first object in this amendment is the same as that contained in the commonwealth Native Title Act. Are the objects in the federal Act incorporated in the state legislation, even though they are not mentioned in it? Is it the Government's view that there is no need to include these so that this legislation agrees with the commonwealth Act? As I said, paragraph (a) repeats what is in the federal legislation. Is there no need to repeat in the state Act the object set out in paragraph (a) because it is implied? It is important to have on the record whether that is the argument, or whether it is about the substance of the clause in that it will provide some major change to what is being attempted in this Bill. It seems important in the context that all the way through this Bill relates to the federal Act. The federal Act contains certain objects which are proposed to be repeated here, by and large, in exactly the same language. Either the objects of the federal Act are reflected in this Bill, or they are not. If they are not, obviously that is a matter which the Commonwealth must take into account in determining issues of equivalence. This Bill implicitly, or otherwise, has objects different from the national Act. I welcome some clarification of that issue.

Mr COURT: We have no choice but to comply with the objects of the federal Act. If that is not reflected in this legislation, this Bill will not meet the conformity that is required. As I have said, this legislation must conform. We have no choice in this matter but to reflect those objects. The object in paragraph (b) of the amendment is to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings. That is what all the clauses in the legislation are about. They are to achieve those goals. It is obvious. That is why it is not necessary to have them stipulated as objects. It goes without saying. That is what the legislation is doing.

Mr BROWN: I understand the Premier is saying that the State has no choice other than to comply with the federal Act. For the sake of the record, before this amendment is voted down, I am seeking to get an answer so that at some future time when people are looking at this Bill, in whatever form it may get through the Parliament, presuming it does get through, they will be able to say, to the extent that it is relevant, that it was the intention of the State that this Bill conforms to and has the same objects as those in the federal Native Title Act. If the Premier says that is the case and that is what this Bill is all about, that makes it reasonably clear. If that is what it is all about, there is little argument about why the objects of the Bill should not be repeated in this Bill other than that the language is superfluous; and I have not heard that argument. Can the Premier acquaint us? Is it a fact, as he claims, that the objects of the federal Act are incorporated implicitly in this Bill?

Mr COURT: No. The member for Bassendean was not listening to my earlier comments. What we hope to achieve in this Bill must reflect the objectives in the federal Act for those sections. However, there are some things that we will not do with this legislation; one is we will not decide claims. That objective is reflected in the federal legislation and we are not going to cover that; we have left that to the Federal Court to decide. However, this legislation must reflect the objects of the federal Act in the areas where we are taking over that responsibility.

Mr Brown: Is it the object of this Bill to provide for the recognition and protection of native title?

Mr COURT: If the member wants to be pedantic -

Mr Brown: I just want an answer to the question.

Mr COURT: If the member wants to be pedantic on the word recognition, to recognise a claim means we must decide a claim.

Dr Gallop: I do not think that is true.

Mr COURT: We are not deciding a claim, if the member for Bassendean wants to be pedantic.

Mr Carpenter: None of us wants to be pedantic.

Mr COURT: In that case, we do not have to worry about the clause.

Ms MacTiernan interjected.

Mr BROWN: I pick up the point made by the member for Armadale by interjection. The object of the Act is the recognition and protection of native title. Whether there is native title in a particular area remains an unanswered question until the processes of the statutes have been gone through. This clause refers to the recognition and protection of the fundamental concept of native title, as so determined. I do not know why these objectives cannot be incorporated in the Bill. Leaving

aside paragraph (d) in the proposed new clause, which the Premier says is outside of this legislation, why is it that paragraph (a) cannot be accepted by saying that this Bill is about the recognition and protection of native title? Can that not be accepted; or is this Bill about something else? Is this Bill about providing protection for native title or is it not about that? Some members would argue that this Bill is not about that; that it is about extinguishment and the best possible processes to achieve it. However, that would be in conflict with the objects of the national Native Title Act. If this Bill is about these objects, it does not hurt to say that and to put it in the Bill.

Mr COURT: Of course this Bill is about the recognition and protection of native title. Claimants must go through a process to have native title recognised. That is what the federal legislation and this complementary legislation does. They must go through a process which, at the end of the day, leads to a determination of who has native title and what that native title is. That is the whole thrust of the legislation. That is why I say it does not have to be put into this legislation.

New clause put and a division taken with the following result -

Ayes (19)

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

Noes (28)

Mr Ainsworth	Mr Court	Mr Kierath	Mr Omodei
Mr Baker	Mr Day	Mr MacLean	Mr Shave
Mr Barnett	Mrs Edwardes	Mr Marshall	Mr Sweetman
Mr Barron-Sullivan	Dr Hames	Mr Masters	Mr Trenorden
Mr Bloffwitch	Mrs Hodson-Thomas	Mr McNee	Mr Tubby
Mr Board	Mrs Holmes	Mr Minson	Mr Wiese
Mr Bradshaw	Mr Johnson	Mr Nicholls	Mr Osborne *(Teller)*

Pair

Mr Marlborough	Mr Cowan

New clause thus negatived.

Clause 1.3: Act binds the Crown -

Mr COURT: I am pleased that we have started committee debate on this Bill, on which the Government accepts we will have a lengthy debate over this and next week. I understand the Leader of the House intends to have another burst on the legislation tomorrow afternoon.

I provide the Government's amendments to the Opposition which apply in the areas of judicial review and the independence of the body. Also, a number of further minor and technical amendments represent our responses to some of the ongoing negotiations with the Federal Government. I will also separately provide explanatory notes to those amendments. If members opposite require any further explanation on the amendments, they should let me know and I will make sure people are available to provide briefings. It is possible to have a final copy of the Opposition amendments?

Mr Ripper: They are now with the House and will be on the Notice Paper tomorrow. They are handwritten in some parts at this stage.

Mr COURT: The intention is to continue the committee stage tomorrow afternoon.

Clause put and passed.

Progress reported.

PLANNING LEGISLATION AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Ms McHale) in the Chair; Mr Kierath (Minister for Planning) in charge of the Bill.

Clause 2: Commencement -

Progress was reported after the clause had been partly considered.

Dr EDWARDS: The Opposition opposes this clause. It is unacceptable that this commencement provision sends a message to local government that if it behaves, the measure will not be proclaimed; however, if it does not behave, it will be proclaimed. As the member for Nollamara said, a sense of deja vu is evident with this Bill. A Minister for Planning passed previous legislation which was never proclaimed. The minister should not be heading down that path again.

Clause put and a division taken with the following result -

Ayes (31)

Mr Ainsworth	Mr Court	Mr MacLean	Mr Shave
Mr Baker	Mr Day	Mr Marshall	Mr Sweetman
Mr Barnett	Mrs Edwardes	Mr Masters	Mr Trenorden
Mr Barron-Sullivan	Dr Hames	Mr McNee	Mr Tubby
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Minson	Dr Turnbull
Mr Board	Mrs Holmes	Mr Nicholls	Mr Wiese
Mr Bradshaw	Mr Johnson	Mr Omodei	Mr Osborne *(Teller)*
Dr Constable	Mr Kierath	Mr Pendal	

Noes (17)

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

Pair

Mr Cowan	Mr Marlborough

Clause thus passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 7 amended -

Dr EDWARDS: The Opposition opposes this clause. This clause, together with clauses 6, 11 and 12, establishes a new appeal right against local government decisions on town planning scheme amendments. The Opposition has considered the amendment carefully, consulted with many people and listened to all those who have an interest in this new appeal right. At the end of the day, we do not believe the provision in clause 5 is justified. The Opposition is having some difficulty sorting out the reasons people feel this change is necessary. The minister said earlier this evening that, given the total magnitude of planning decisions made in this State, only a few appeals are made against those decisions. The Opposition does not think this is as necessary, as the minister has indicated.

The other huge problem with this clause is the effect it will have on local government autonomy. We have heard much rhetoric in this place about the importance of local government and its decision making and we have heard calls for it to be very responsive to the needs of its local constituency. The comment by local government representatives that it is part of a move to centralise planning decisions is a fair comment. The history of changes to planning law in the past few years justifies the claim that planning matters are becoming increasingly centralised. In addition, in 1994-95 local government made a number of concessions in return for keeping this local decision-making power with respect to initiating amendments to town planning schemes. In some ways there has been a breach of trust, to which local government is reacting strongly.

It can also be argued that in many other decisions of government there are no appeal rights. In favour of local government, it must be said that local government decisions are transparent. People can attend council and committee meetings, ask questions and have access to minutes. To a large extent local authorities are accountable to the community. The same cannot be said of every decision made about or condition placed on a development. For example, some of the decisions of the Western Australian Planning Commission are not as transparent as some of those made by local government.

Mr Kierath: But they are all appealable.

Dr EDWARDS: Not all of them. Although the major ones may be, the processes for arriving at those decisions are not. One of the other issues on which the Opposition would like to be given a fair go is the planning peer review panel. If these are properly sold to all those who have an interest in them, they can be an effective mechanism. There is a need for peer review of planning decisions and it is beneficial for local government to consider this. However, it appears there is a problem because, although the notion is very good, it has not been adequately sold to the broader community or to parties who might participate if they knew more about it. I know the Government has done much to resolve some of these problems

in the planning area. The Minister for Planning has set up working groups and task forces, and the Ministers for Local Government and Housing have done quite a lot of work in this area. If the fruitful gains from all those committees and working parties could help resolve some of the communication difficulties, we might not have the current problems and people's complaints about local governments refusing to initiate town planning scheme amendments. For all those reasons, the Opposition does not believe the clause is necessary and it will oppose it.

Mr KIERATH: I move -

Page 3, lines 19 to 22 - To delete the lines and substitute the following -

(1a) The decision to prepare any amendment to a town planning scheme may be made by a local government of its own motion.

(1b) Without limiting subsection (1a), the decision to prepare an amendment to a town planning scheme to reclassify or re-zone land in the scheme area may be made by a local government on the application of the owner of the land.

In relation to the issues raised by the member for Maylands, it is important to reflect for a moment on where those actual powers for local government have their origin. They come via the State through the Town Planning and Development Act. Local government says that it is its exclusive right, but that power is bestowed on local government by legislation of this Parliament. Where do people go when they feel a decision is unjust? I tried to explain that there is no evidence of abuse or misuse as a result of the other appeal mechanisms. The evidence indicates that most of those decisions stand; the change is only for instances over which people feel aggrieved or that the decision is unjust. If no such appeal right is available in that instance a person who felt aggrieved by a decision would be in a very difficult situation. It is not always a matter of corruption; people can feel a decision is a bad one.

The member for Maylands said in the second reading debate that many local governments were elected by only 10 or 15 per cent of the vote. Some are elected by strong lobby groups. I was a former local government councillor and observed that groups regularly turned out to vote on election day. If a candidate did not get close to those groups it was hard to be elected as a local councillor. Often councillors will sit on a council, representing not the silent majority who for whatever reason do not vote, but the people who marshal numbers on election day. We can get people in that position making unfair or unjust decisions because they are pandering to a small group. I would have thought that was an issue the Australian Labor Party would take up on behalf of other people. I always thought its members would fight for the right for someone to appeal a decision he thought was unfair or unjust. Over the years I have had many representations from various members in relation to other portfolios on that very basis. However, I understand the ALP is playing the politics game along the lines of the Western Australian Municipal Association, without justification. I will not criticise that, but acknowledge it.

In this case members opposite should reflect on what we are doing. We are seeking not to overturn decisions but to allow due process to permit the public to have a say. To that stage only elected councillors have a say. If it goes the next step to advertising, any interested member of the public can have a say on that proposition. It requires the local council and the Western Australian Planning Commission to form a view and provides a chance, if people are unhappy with that, to see the minister. It is not automatic; it is simply that the decision should be allowed to be tested if it is fair and reasonable.

Mr KOBELKE: What is the reason for the change of wording and what if any effect will the change in the wording have?

Mr KIERATH: The main thrust of the amendment is to restrict the extent of the appeal right. If my memory serves me correctly, it arose as a result of discussions with WAMA over some other issues not to widen the clause but to make it narrow so that it will apply only to landowners relating to their land and only to zoning rather than to text amendments as such. When WAMA was not in straight out opposition mode discussing the reasonableness or otherwise of that, there were points raised that had validity. It was not our intention to widen the appeal right, but to restrict it to those circumstances.

Mr Kobelke: How does the amendment change that? On casual reading the wording seems to have the same effect. It appears that the change of wording is a matter of setting it out and making it clearer. I cannot see how it changes the effect of proposed subsection 1(a).

Mr KIERATH: Line 21 refers to the application of "a person" seeking amendment; whereas the end of 1(b) refers to the owner of the land.

Dr EDWARDS: Although we agree on some issues such as the poor turnout of voters at local government elections and that is a problem that should be addressed, and is being addressed in some areas, this amendment will not do anything to address it. My argument is that a number of problems exist both with local government representation and perhaps local government decision making.

Mr Kierath: I did not suggest it would fix the problem.

Dr EDWARDS: If the minister wants to run that line of argument, other mechanisms exist to fix the basis of the problem

rather than this legislation. I reiterate that if people think corruption has occurred with the decision making process, they should take it up with the relevant authorities.

Mr Kierath: What if something borders on blackmail but does not go to the criminal definition of blackmail?

Dr EDWARDS: That has not been raised with people. The conditions have not been raised at all. In fact, people to whom I have spoken say they are -

Mr Kierath: One example was the imposition of a tax to which I do not think the member for Maylands would agree. One council said people had to pay a 2.5 per cent levy before it would approve the rezoning. That was inappropriate, but it did not breach the Criminal Code.

Dr EDWARDS: There are other mechanisms by which that can be addressed. Why not take it up with the council or the Department of Local Government?

Mr Kierath: Have you ever tried to challenge a decision with a person who made the unreasonable decision?

Dr EDWARDS: Yes, I have had that frustration and pleasure. However, the way in which we are trying to go down this path is not the right way to resolve some of the issues the minister is raising.

Mr KOBELKE: I thank the minister for clarifying in part the amendment. However, I do not think the amendment will have any great effect. Existing proposed subsection 1(a) allows for amendment to be made on application of any person seeking the amendment. It would be highly unusual for someone to seek an amendment who did not have an interest in the land. He may not be the owner; he may be a developer who has an offer and acceptance or a contract with the owner, and the sale or interest to the developer may be conditional on rezoning or amendment going through.

Mr Kierath: What about a neighbour who was hoping to do something that might trigger it? After we drafted the legislation, it was pointed out in discussions that "a person" was wider than "the owner of the land". We agreed with that and said that it was not our intention to widen it. That is what the amendment does.

Mr KOBELKE: The minister is suggesting that a possible scenario is a person applying to a local government authority for an amendment to a town planning scheme on land of which he is not the owner and to which the owner of the land may be opposed. If that were the case, the landowner would formally advise the council of its opposition to the amendment. The difficulty would arise of whether he should take action against the landowner on the basis that another party was seeking amendment to the town planning scheme. That would be highly unusual. What is more often likely to be the case is that the person who does all the work, puts in the applications and does the necessary planning legwork would be a developer or a town planner. He may not be the owner of the land but will be acting in a way that seeks to serve the interest of the landowner. It may be directly on behalf of the landowner or a third party who is making an offer to the landowner, with which the landowner is happy to go along if the developer can put the whole package together. In a situation like that it would require written permission of the landowner to the proposer of the amendment and the amendments would work the same as the present clause. I agree it is being narrowed. The minister's explanation is clear and correct. However, I cannot see how the effect will make a major change.

Mr Kierath: It is not a major change. An example raised was that I could have had my land rezoned and could apply to have the surrounding land down-coded. I may not be the owner of the surrounding land. It was not our intention to provide that proposition. If the council were doing it - it has that right to do it now - this amendment would not stop it doing that.

Mr KOBELKE: It would be highly unusual for the council to look sympathetically on an amendment proposed by someone who did not own the land which was opposed by the owners of the lands.

Mr Kierath: In the City of Melville an amendment has been effected to down-code the land. Half the people in that area have submitted about 1 300 subdivision applications. On a straight out vote if they had voted - they may do in the next election -

Mr KOBELKE: That clouds the issue; that is not the issue. In a case such as that at least one of the people wanting change would be a landowner and therefore a valid applicant.

Mr Kierath: This was initiated by the council and the landowners concerned put in the submissions. That is not changed by the amendment. If it is on the council's own motion, the amendment does not touch that. I am looking specifically at the amendment.

Mr KIERATH: I thought that I had given the explanation that it stops a person in general, which it was never intended to do. It was only to be the landowner. All this is doing is narrowing it down to the landowner and not including other third parties in whatever circumstances that may arise. We have not thought of all the possible circumstances. It was simply that when the issue was raised we agreed that it was not intended and that the way of tightening it up to get back to what was intended was through the amendments.

Mr KOBELKE: I accept that, but the minister has not answered the point that I put to him - that in effect it will not change things other than that if the proposer is not a landowner there will now be the requirements under the minister's amendment that -

Mr Kierath: Not a landowner, the landowner.

Mr KOBELKE: Amendments usually cover more than one.

Mr Kierath: It is possible that someone who did not own the piece of land could embark on the process.

Mr KOBELKE: Exactly. It is a landowner; it does not mean the landowner. Several landowners could be covered by the amendment. As long as there is one landowner who makes an application for the amendment -

Mr Kierath: If we leave it as a "was" it is possible that a landowner from somewhere else -

Mr KOBELKE: I accept that. The only change now is that if the person who actually proposes it is not a landowner in the area to be affected by the amendment they will now require written consent by a landowner in order to meet the requirement. It is not putting it in their name. They would simply submit a bit of paper signed by the landowner or a landowner in the affected area that they wish the amendment to be made. In effect, the minister's narrowing simply requires an administrative step to be taken in order to comply with the law. I accept that. I have no problem with it but I am trying to tease out the practical effect. All that I can judge from it is that the practical effect now is that if someone wishes to meet the requirements of the Bill, as the minister is seeking to amend it, and if that person is not a landowner, he or she will actually have to do it in the name of the landowner by having the landowner personally sign the application.

Mr Kierath: What if your neighbour wanted to get some controls over your land, such as preserved use? He should not have the right to seek that zoning change without your approval.

Mr KOBELKE: Sure. I do not think that such a case would be picked up. If the owner of the land objected to that, he would therefore be notified through the process and inform the council of his objection and, in terms of natural justice, we would not disadvantage the landowner on behalf of someone who did not own the land.

Mr Kierath: Should that person have an appeal right? We say that he does not.

Mr KOBELKE: Fair enough. The minister is excluding that, but in terms of the run-of-the-mill, the effect will be a requirement for action to be taken in the name of the landowner. In many cases if a developer is acting on behalf of the landowner there will be an extra administrative step - I do not have a problem with that - and things will proceed, but I accept that the minister is cutting out what might be some troublesome applications which one would not expect to proceed anyway. Therefore, the minister does not wish those types of applications to be able to proceed with a right of appeal.

Mr Kierath: I do not think that it is an extra step because the developer, in order to do many transactions, would need the current approval of the landowner in the first place. It is not an extra step but it makes sure that no "third party" has the right of appeal.

Dr EDWARDS: Presumably, all that must happen is that the person doing the work makes it clear that he has the consent of the landowner.

Mr Kierath: That is what happens now.

Amendment put and passed.

Mr KOBELKE: I now take the opportunity to speak to the whole clause as amended. The minister commented on the value of people being able to appeal to uphold their rights. That is a fairly broad issue which is encompassed by that proposal and some of the things that the minister said. I shall comment on a few of them. I fear that the change being made has potential to undermine local government planning. The minister rightly says that local government has no planning power other than that which is bestowed by the State through its statutes. That is absolutely correct. However, when we hand over a body of power to a different level of government or some agency even within government, we need to encompass those responsibilities, rights and procedures and allow that agency or level of government to get on with the job. There comes a point at which interference from the State Government to a local government authority can undermine the whole process. Councils will ask, "Why do we go to our fortnightly or monthly planning committee and put the whole thing through council when there is absolutely no respect by central government for the decisions that we make?"

Mr Kierath: Currently all their planning powers are appealable now and it does not stop them going to committees and making decisions. This measure is not for planning powers, it is actually the rezoning.

Mr KOBELKE: Which is part of the planning powers.

Mr Kierath: All other planning approvals are currently appealable to the minister or the tribunal, but that does not stop local government growing in that area or making decisions. All local governments have planning committees of one description or another. That has not stopped them at all.

Mr KOBELKE: The minister has not let me finish. We must see it in the total context of planning powers and how they work. There is already a requirement that a rezoning or an amendment to a town planning scheme be initiated five years after the completion of the previous revision of the town planning scheme. Town planning schemes are now required, through enforcement provisions in the legislation, to be done every five years. The minister can step in when a council is tardy, and councils have been tardy in the past. The minister has specific powers to intervene and force a review of a town planning scheme which could pick up applications of this type and ensure that they are considered as part of a review of a town planning scheme.

Mr Kierath: You can start but not always complete it. The City of Wanneroo has been going at it for over 20 years and Bruce Rock for over 40 years.

Mr KOBELKE: Under the powers, if the minister thinks that a council is being negligent in this area, he can take the matter out of its hands, give it to a consultant and the consultant's fees can be charged back to the council. The minister has extensive powers if he wants to push a review of a town planning scheme. We could have a local government authority which has reviewed and established an amended town planning scheme two or three years previously. If an amendment comes along, it could say that it will consider it in another two or three years when it reviews the town planning scheme and that it does not think it is appropriate or efficient to consider an amendment at this stage. This will give a property owner an appeal right to force an amendment because of their wish to develop or change the zoning on their piece of land. When one does that, one is starting to create a problem for local government. If it sits on the statutes and is not used very often, it would not be a problem but we will find strong opposition if it comes into regular use. Clause 5(1e) of the Bill lists a range of issues which can be used. It states -

> If an applicant for the amendment of a town planning scheme is aggrieved by the local government's decision to -
>
> (a) refuse to prepare the amendment sought;
>
> (b) refuse to take a requisite step; or
>
> (c) require an undertaking or impose any other requirement in connection with the preparation of the amendment or the taking of a requisite step,
>
> the applicant may within 60 days after being notified of the decision, appeal against the decision to the Town Planning Appeal Tribunal . . .

That opens up a range of standard issues which arise when an applicant is seeking an amendment to a town planning scheme. Many of those areas are taken out of the hands of the local government authority.

Dr EDWARDS: I am interested to hear the minister's response. Will he respond to the member for Nollamara's comments about the review after five years and the minister's ability to intervene if the council has not conducted a review by then?

Mr KIERATH: I was not going to respond because we have been through this before. One can conduct a scheme review after five years but not for individual lots. If the minister was in the job for five years and the individual landowners wanted to lobby the minister, the minister might think it was fair enough to save them all up and force them on the council when it conducts its scheme review. That is technically possible now but it is not the sort of thing which would happen. A scheme review is a broad review. It is not allocated to one lot of land. Most of these rezonings are for an individual piece of land. I am not going to respond in great detail; it is in my second reading reply.

Mr KOBELKE: Clearly there are different types of review of town planning schemes. Sometimes they are analogous to omnibus amendments where the council goes through and tidies up a range of issues relating to small parcels of land spread across the area of the town planning scheme, which may be a whole municipality. Taking up an application from a landowner fits in with that style of thing. In other cases, forcing a council to deal with one amendment and have it reviewed can run across the approach of the council, which may be to have a totally integrated scheme. They may be looking for the broad brush effect. In cases like that, some landowners may feel aggrieved and that their interests are subservient to what is judged to be in the overall interest of town planning for a larger area. Those people would be able to say that they are not happy with the overall town planning scheme which the council may have spent two or three years putting together. The council may have gone through a thorough process of consultation and tried to handle the disaffection of certain landowners who did not feel they got the answers they wanted in the town planning scheme. Under the existing scheme, the landowners know they must wait five years and perhaps a little longer and then argue their case again. The minister is giving those landowners the chance to restart the whole process immediately after the completion of a review of a town planning scheme under which they feel aggrieved, just in their own interest. That can be very destructive of town planning in some instances. It is only one scenario and there are many. The minister allowing the process to be revisited by a landowner who is not happy with the town planning scheme which has been put in place could be an unwelcome burden on some local government authorities which have done the right thing, reviewed their town planning scheme and completed the process, possibly over one or two years. The landowner has put his case, made his arguments in the major review and having not got what he feels is in his interest but what may be judged by the clear majority to be in the interest of the wider community can restart the

whole process; and if he is still not happy, he has an appeal provision to the Town Planning Appeal Tribunal. That is part of what I was alluding to when I said the process at local government level can be destroyed if that process of integrity is not allowed to remain where the judgments are made. The scheme already allows a fair bit of interplay between what the local government authority can recommend and the approval which the minister finally grants. At the end of the day, the matter is in the minister's hands with the advice of his department. This is adding another avenue through which a landowner can seek to rearrange a town planning scheme which has been put in place.

Mr KIERATH: I point out to members that the schemes very rarely stay static for five years. Recently I received a scheme review to which the council had already submitted another amendment which it wanted approved before the scheme review was finalised. A town planning scheme does not sit statically, it evolves and changes. In that five years there could be any number of amendments. The City of Wanneroo has had 800 amendments over 20 years.

Mr Kobelke: How many town planning schemes cover the City of Wanneroo?

Mr KIERATH: Only one, which has had 800 amendments.

Mr Kobelke: That is not a valid comparison when you have one town planning scheme covering a huge growth area.

Mr KIERATH: Many schemes would have one or two amendments a year. A town planning scheme does not sit there and do nothing; it continually changes. The point the member makes is possible. The local council which sent me amendments to the scheme before the review was gazetted had found that since the review had been conducted there was a need to change the scheme and that was done accordingly. There is no problem with that; planning is evolving. An appeal will go to the tribunal based on planning merit. If the council has strategies and policies in place and the schemes are up-to-date and the appeal is against that, the chances are that the appeal will not get up on planning merit. If the council knocked back the amendment on planning merit, chances are the tribunal will agree with it. However, that may not be the case if the council has pulled something out of left field and there is no planning merit in the council's decision. As minister I see a lot of these things. A council can do something like handball a difficult decision to me for a variety of reasons. In one situation a small authority did not like the person. I do not think that is a reason for knocking back the application, no matter how obnoxious the person may be. The unjust decisions are appealable. We went down the tribunal path so that the applications stack up on planning merit, and are not just fanciful. If a company applies to have a property rezoned, without giving good reason, the chances are that it will not get to the next stage. A company that puts up a reasonable proposition that fits within the planning strategies, planning principles and policies should be able to test it. That company can go to the tribunal and if the planning merits stack up, the tribunal can say yes, not to the decision, but to the application proceeding to the next step. I do not think anything in this clause can be said to create a nuisance provision. It covers a situation where an applicant feels hard done by, having done everything properly in accordance with its published policies, having gone though all the procedures, and for whatever reason the council refuses to agree to the rezoning.

Clause, as amended, put and passed.

Clause 6: Section 18B inserted -

Dr EDWARDS: This is the machinery clause. Basically this clause sets out what happens after the Town Planning Appeal Tribunal has been involved and, presumably, made a decision that a town planning scheme amendment should proceed. It is somewhat alarming. If a local government authority is not complying, this clause states that minister can act as local government to achieve compliance and can also direct a local government authority to act and, if it does not, the minister can then act and recover costs from the local government authority. It is quite an insult to the decision-making abilities and the responsiveness of local government. In some ways, what the minister was saying about the number of amendments made to town planning schemes is almost an argument against his case. If local government authorities are evolving to such an extent, why does the minister have such little trust in their decision-making? We will oppose this clause. If this provision came into effect, to what extent would the minister be accountable to the Parliament for these directions and decisions? Will the directions be listed in some reports somewhere? How will the broader public, beyond the people living in the area who will know about it because it will be advertised and there will be notices, get to know it has happened; and how will we, as parliamentarians, be able to keep an eye on the number of these sorts of directions and actions by the minister effectively overriding and acting as a local government authority? How will we know how many of those decision have occurred?

Mr KIERATH: First of all, I do not think this is as the member portrayed it. The Town Planning Appeal Tribunal makes decisions now and most councils go along with them. If the council does not go along with them, how can the tribunal's decisions be enforced. All of those decisions are public and if the council did not take the action, the tribunal would ask the minister to enforce the tribunal's decision. If we do not have this provision, there is no effective enforcement mechanism of the tribunal's decision.

Dr Edwards: The tribunal does not make a report to Parliament. How would members of the general public who do not live in the affected area, find out about it?

Mr KIERATH: I am advised that the tribunal does publish its decisions, and they are available to anybody who has an interest.

Dr Edwards: I know that; however, it does not do an annual report. If it does, I have asked for one and have never received it.

Mr KIERATH: The member knows my views on the tribunal in the longer term. I want all planning appeal decisions - those of the tribunal and the town planning appeals committee, the ministerial committee - to be published instantly. I do not have a hard copy of those in my office. Ultimately they will be published on the Internet; people will have electronic access to them, and that will be an improvement on what has been provided in the past. The tribunal will make its decisions as it always has, and this is only an enforcement provision where, on the rare occasions when a council does not comply -

Dr Edwards: Normally a ministerial direction is in a departmental annual report.

Mr KIERATH: That is where a ministerial direction is going against someone else, who has given some advice or an opinion. In this case the tribunal has been entrusted to make that decision. Under this provision, the minister is a mechanism for carrying out the tribunal's decision.

Dr Edwards: That is a fine point.

Mr KIERATH: That is exactly what I am advised it does.

Mr KOBELKE: The provisions contained within proposed new section 18B reflect the philosophical approach of the minister, on which I commented earlier. I do not believe this approach is appropriate or sits well in the relationship between the State Government and local government in areas of planning. Instead of the determination being made and local government being expected to follow through, the minister in a very heavy-handed way can dictate the whole process, should the council in any way be recalcitrant or not willing to comply fully with what the minister directs. In cases where there is a clear decision from the Town Planning Appeal Tribunal and the fulfilment of that determination is left to a local government authority, one would expect that to be followed through.

As already indicated by the minister, planning matters can be very complex. It may be that a council feels it has complied with the decision of the tribunal, but the party who has won the case feels the council has not fully complied. There is an ability for a person to convince the minister that he or she is not satisfied with the local government authority. The wording is that if the minister is satisfied that a local government authority has failed to prepare an amendment to a town planning scheme or to take a requisite step as defined in section 7(lh), under this provision the minister may serve notice in writing on the local government authority. The critical point is that the minister must simply make a determination that he or she is not satisfied, and then all hell can break lose if the minister wishes to proceed with the rest of the provisions in this clause. The minister then specifies by notice the determination with a 90-day period and advises the local government authority that he or she intends to exercise the powers under subclause (3). If within that period the local government authority has not complied, the minister may take all such steps and prepare or cause to be prepared all such documents as are necessary for compliance with the requirement as if the minister were the local government authority. The minister simply subsumes all the planning powers required with respect to that issue and takes over the running of the local government authority with respect to those planning details.

This clause dictates in fine detail how the minister has all those powers from the point of being able to put people into the council to do the work, through to requiring that, where all of the work has been done by the minister or his agent, all costs, charges and expenses incurred by the minister are simply recoverable from the local government authority. To add insult to injury, local government authorities are being dictated to in fine detail. These matters have been taken out of their hands totally and they must foot the bill. That is a heavy-handed approach which we do not need to see in the relationship between the State Government and local government authorities with respect to planning. It reflects the whole intent of the changes in this clause - to be dictatorial; to tell the local government authorities that they will do things the minister's way, or else, rather than handing over to local government authorities a whole range of powers to enable them to administer planning properly, within the constraints laid down by the laws that apply in this area. More than one statute covers this area. Here the minister is seeking the power to dictate. I do not think we should be putting these powers into the legislation.

Mr KIERATH: I do not want to ruin a good story, but these provisions were drafted under the former minister. They were not of my doing. Although the member might say that he thinks it is part of my thinking, strategy, style or whatever, it is not the fact. I ask the member to look at proposed section 18B in its entirety. Proposed section 18B(1) reads -

> . . . in accordance with a determination made by the Town Planning Appeal Tribunal . . .
>
> (2) The notice is to -
>
> (a) specify the Town Planning Appeal Tribunal's determination;
>
> (b) specify a day . . .
>
> (c) advise the local government that the Minister intends to exercise the powers . . . if the local government does not comply with the requirement made under paragraph (b).

It is possible that the minister may decide not to enforce the tribunal's decision. I think that is about the limit of the minister's discretion. Once past that, the restrictions are quite tight. The legislation is about enforcing the tribunal's decision and not going further than that.

Mr KOBELKE: I will make the statement and leave it open for the minister to comment and give a different point of view. My reading of new section 18B is that it would not be contestable in a court. The test is simply whether the minister is satisfied. If the minister's satisfaction was not shared by many other people, there would be very little grounds to contest that administrative decision in a court of law, because if the minister is satisfied that certain things apply, that is the judgment.

Mr KIERATH: I do not have a crown solicitor with me, but most deliberative decisions are contestable in various courts of law. If an aggrieved party felt that a minister was going beyond that stage, it would challenge the basis of that determination in a court.

Mr Kobelke: The proposed section does not say "if the local government has failed" but "if the minister is satisfied that the local government has failed".

Mr KIERATH: The trouble with amateur lawyers is that they put their own interpretations on provisions. There is a large body of administrative law. Virtually any deliberative decision is challengeable in some form or another, sometimes in very convoluted ways. The proposed section reads not only "has failed to" but also that one can take those steps "in accordance with a determination made by the Town Planning Appeal Tribunal". My belief is that the clause confines the power to that and not beyond it. I am happy to put that on the record.

Dr Edwards: You do not always take the advice of the tribunal.

Mr KIERATH: As I said before, if the minister of the day did not want to take the advice of the tribunal, perhaps the minister would not enforce the decision of the tribunal; but whether the minister enforces it is about the limit of the discretion. The proposed section reads that the minister "may" enforce.

Clause put and a division taken with the following result -

Ayes (29)

Mr Ainsworth		Mr MacLean	Mr Shave
Mr Baker	Mr Day	Mr Marshall	Mr Trenorden
Mr Barnett	Mrs Edwardes	Mr Masters	Mr Tubby
Mr Barron-Sullivan	Dr Hames	Mr McNee	Dr Turnbull
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Minson	Mr Wiese
Mr Board	Mrs Holmes	Mr Nicholls	Mr Osborne *(Teller)*
Mr Bradshaw	Mr Johnson	Mr Omodei	
Dr Constable	Mr Kierath	Mr Pendal	

Noes (17)

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

Pairs

Mr Court	Mr Marlborough
Mr Cowan	Mr Brown

Clause thus passed.

Clauses 7 to 9 put and passed.

Clause 10: Section 33B inserted -

Dr EDWARDS: This proposed section provides the head of power so that regulations can be made to do with planning fees. I thank the minister for giving me a copy of the notes because it has answered some of my questions. Does the minister have any idea when the Bill is likely to pass through the other place, and when does he think it likely that the regulations will be in effect?

Mr KIERATH: I have been elevated in my status to predicting what will happen in the other place! Others have trained me well enough over the years not to dare to predict what will happen in the other place, and I would not attempt to do so.

Dr Edwards: Is this Bill on the list of legislation that you want to get through before Christmas?

Mr KIERATH: Yes, subject to a whole range of other things. The Government hopes to have this up and running by the middle of next year. From my point of view, it is highly preferable if it can go through by Christmas because, apart from one aspect of it, most of the provisions are actually widely supported by the Western Australian Municipal Association.

Mr KOBELKE: There are certain good reasons for having powers to ensure uniformity of charges and fees that are levied by local government for planning matters. Earlier in the minister's contribution, he gave some examples showing the diverse level of fees and application fees that were applied by different local government authorities for exactly the same service. It makes good sense to have a degree of uniformity which these regulations would enable to take place. I am concerned that the head of power provided in this can also allow a Government or minister to dictate in fine detail what costs may be attributed to developers by local government authorities. Clearly, very different cases arise, particularly when a country shire is compared with an area of metropolitan Perth that is quite stable, or with an area of outer metropolitan growth. If these regulations and tight constraints are put in place on what contributions or fees may be required of major developers, that could place a heavy financial burden on some of the local government authorities, particularly in areas of rapid growth. In many instances when a major development is taking place, a large cost factor comes back on the local government for the infrastructure necessary for that development. I know that there have been examples in which some local government authorities have been over the top, but of course the developers will say that some state government agencies have levied exorbitant headworks charges and other fees. I do not think it would be fair or just if these regulations were used in such a way that placed a heavy burden on some local government authorities in areas of rapid growth and in which a high infrastructure cost was imposed on a local government authority.

Mr KIERATH: We have had a consultant do the study. I am not aware of any criticism by local government. In fact, this is holding down their fees. It is a ceiling, a maximum, and it is up to local councils to charge less. Extensive negotiations have taken place with the Western Australian Municipal Association and the industry. The industry is currently making a second bid because it thinks the ceiling is too high, and some intensive negotiations are taking place between the industry and WAMA. I have indicated that I want broad consensus. The only criticism the member may have of the fees is the criticism from some people in the industry who are saying the ceiling is too high. The height of that ceiling must reflect the worst case scenario, so the little council that might have to expend a lot of fees to get to that level can recover them. That is one of the differences we have. The setting of the ceiling tends to be at the upper end, not the other end. I am not aware of anyone who has come to me to complain about that end of it. It is the other end that they think is too high and the industry is having second thoughts. They have lobbied me, and I have suggested they try to sort it out.

Clause put and passed.

Clause 11: Section 37 amended -

Dr EDWARDS: Clauses 11 and 12 are what one would call consequential clauses. The member for Nollamara and I have given arguments about why we oppose this new appeal right. Clauses 11 and 12 are two clauses that amend various pieces of the Act to bring in the new appeal in a much lesser way. They are changing the terms and making it clear that the appeal is to the tribunal. We do not intend to unduly hold up the Chamber or to cause a division with every clause that we oppose, but for all the reasons that we spelt out when discussing clauses 5 and 6, we oppose clause 11.

Clause put and passed.

Clause 12: Section 39 amended -

Dr EDWARDS: Similarly, clause 12 makes it clear that this new appeal right is to the tribunal, not to the minister. As members would be aware with other appeals under the planning system, the appeal is either to the minister or the tribunal. In this case they chop the minister out for very good reasons. For the reasons we spelt out in clauses 5 and 6, we oppose this clause.

Clause put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 18 amended -

Mr KOBELKE: I seek some explanation of clause 16(2)(1bb)(b). It states with respect to regional planning schemes that -

> local laws which if made would affect or be likely to affect the regional planing scheme shall not be made by a local government,

I ask the minister to explain why that exclusion is made to the powers of a local government authority to create local laws, and whether any other steps may be necessary to assist local government authorities that are managing such regional schemes if they cannot resort to local laws to assist them.

Mr KIERATH: I am advised that this is an exact duplicate of section 34 of the Metropolitan Region Town Planning Scheme Act. It has been tried and tested and no-one is unhappy with it. That is the reason it is in that form.

Mr Kobelke: It has been in place for only a couple of years.

Mr KIERATH: We think it has been in for some time. It was not introduced in the original Act; it was included as an amendment to the original Act, but we do not think it was of recent time. We think it has been in for a reasonable period.

Clause put and passed.

Clause 17: Parts IIA, IIB, IIC and IID inserted:

Mr KIERATH: I move -

Page 15, lines 8 to 24 - To delete the lines and substitute the following -

21. (1) Subject to this Part, the Commission may, if -

(a) the Commission is of the opinion that the development of land within the part of the State to which a regional planning scheme is to apply might materially affect the preparation or implementation of the regional planning scheme;

(b) the Commission has complied with subsection (2); and

(c) the Minister approves,

make such regional interim development orders as are necessary for regulating, restricting or prohibiting that development.

(2) Before making a regional order the Commission shall -

(a) inform each local government of a district which lies within or partly within the area to which the proposed regional order will apply of the proposal;

(b) invite that local government to make submissions on the proposal within 28 days; and

(c) provide the Minister with a copy of any submission received under paragraph (b).

(3) A regional order -

(a) may be made by the Commission at any time -

(i) after resolving under section 18(1a) to prepare a regional planning scheme; and

(ii) before the relevant procedures set out in the provisions of the Metropolitan Scheme Act referred to in section 18(1a), as read with section 18 (1a) and (1b), have been fully complied with in respect of the regional planning scheme; and

(b) is to specify the land affected by the regional order.

Dr EDWARDS: Can the minister provide us with some background to this amendment and some of the problems that arose in the initial Bill that led him to bring in this amendment?

Mr KIERATH: It arose out of discussions with WAMA. It was concerned that councils would not be consulted about the regional interim development order if it was against their scheme. They requested that they be consulted in discussions. We felt that that was a reasonable proposition because we were not trying to override them; we were trying to prevent the situation whereby a council could make decisions that would be against the spirit of the regional planning scheme that was coming in. We needed the power. I think that WAMA, in phrasing it in this way, said it could be used as a positive order instead of a negative order.

Dr EDWARDS: The minister said previously that the Planning Commission passes a motion, or whatever procedure is followed, every time it develops a regional scheme. Is it fair to read this as indicating that the commission will now consult before it makes the decision; that is, it will tell local government what it is about to do, and then deal with its motion procedure?

Mr KIERATH: In essence, yes. The amendments require the commission to refer any development applications to local government for comment within 42 days. It also requires that the commission shall have regard to the local government submissions.

Amendment put and passed.

Mr KIERATH: I move -

Page 19, after line 19 - To insert the following -

(2) Before granting an application for permission to carry out development referred to in paragraph (a), the Commission shall -

(a) refer that application to the local government of the district in which the relevant land lies;

(b) invite the local government to make submissions on the application within 42 days; and

(c) have regard to any submission received under paragraph (b).

(3) Despite section 28, nothing in a regional order in force in respect of a regional order area empowers the Commission to grant to an applicant permission to carry out a development if that development contravenes a provision of the town planning scheme operating in the regional order area.

Mr KOBELKE: Will the minister please explain the reasons for this amendment?

Mr KIERATH: I touched on this provision earlier when referring to the positive order. The Western Australian Municipals Association's fear was that it would be used to override the scheme. Clause 24(2) requires the commission to refer the development applications required to develop an interim regional development order to local government within 42 days. Also, it requires that the commission have regard to the local government submissions. It will establish that the existence of a regional order will not empower the commission to approve a development contrary to a town planning scheme. This clarifies the intent of a regional order to prevent developments which may jeopardise a regional planning scheme, rather than allowing developments prohibited under the local scheme.

Mr Kobelke: Is it a form of giving regard to submissions by local government?

Mr KIERATH: It is much more. It is to stop the Planning Commission approving something contrary to the town planning scheme. The intention was to prohibit developments which might prejudice a future scheme, but not to use it to allow developments that would override an existing scheme. The process is to protect local government from the feeling that the State Government is trying to impose a development.

Amendment put and passed.

Dr EDWARDS: Proposed section 27 deals with non-conforming public works. I thought that effectively government agencies had the shield of the Crown. Is this provision interfering with that protection in any way? It appears that if local or state government wants to undertake work covered by a regional order, and disagreement arises, presumably it will go to Cabinet. Is this a heavier instrument than that which normally applies in planning?

Mr KIERATH: We have used the same clauses for the regional interim development order that local government uses through the Town Planning and Development Act to bring down its own schemes. It is an exact copy, but it does not change any rights in any other part of the Act. The member is referring to something which is a public work, which is a different kettle of fish.

Dr Edwards: Is it covered by different Acts?

Mr KIERATH: A section of the Town Planning and Development Act applies to public works. It is a separate provision. We are trying to impose constraints on the development order, as some suspicion arose that it might be used for the wrong purposes. We were trying to impose the same constraints on the commission as apply to local government in making changes to their town planning schemes.

Dr Edwards: It is reassuring to local government that the State Government is not trying to sneak through developments.

Mr KIERATH: The member for Maylands is dead right.

Dr EDWARDS: Proposed section 29 provides limits on the compensation payable for injurious affection under a regional order. How is money raised to pay the compensation, and what is the mechanism involved?

Mr KIERATH: The Planning Commission in the metropolitan region has the metropolitan region improvement fund. I was not successful in expanding the application of the MRIF to other parts of the State; therefore, money will come from the consolidated fund. It will be applied in the same manner as the compensation mechanism relating to metropolitan and regional areas. I move -

Page 35, line 14 - To insert after "region" the following -

to which a regional planning scheme applies

Amendment put and passed.

Mr KOBELKE: I seek clarification on the sometimes contentious issue of the power to acquire and dispose of land as part of a town planning scheme, or in this case a regional scheme. The intent of proposed section 37H, titled "power of commission to dispose of land", is clear: The commission shall hold for the purpose of a regional planning scheme any land acquired by it under this measure, and may dispose of that land. Proposed subsection (3) is the key -

> In exercising a power to dispose of or alienate land conferred by this section, the Commission shall have regard to the general principle that in such cases land acquired by the Commission should, if in the opinion of the minister it is reasonable and practical to do so, be first offered for sale at a reasonable price determined by the Minister to the person from whom that land was acquired.

That does not appear to require that the original owner of the land must be given the first right of refusal. That is the intent, but it will apply only if in the opinion of the minister it is reasonable and practicable to do so. The minister may decide that should not be the case. For example, the Government may want to give a high priority to a development that does not fit into the planning requirements, and for that reason the land may not be offered to the original owner. Will it be an established principle that land which has been acquired for the purposes of a regional planning scheme must first be offered to the original owner?

Mr KIERATH: These proposed sections are identical to the provisions in the metropolitan region scheme. The general principle is that if the land has been compulsorily acquired from an owner, that owner will be given the first right of refusal. However, if the land has been acquired by negotiation - in other words, it is a commercial sale where the owner offers to sell it at market price, and the Planning Commission is a willing buyer - it will not be offered to the original owner. I may not have covered every possible circumstance, but those are the two main reasons. In my term as Minister for Planning, I cannot recall one case where land that has been compulsorily acquired has not been offered to the original owner. However, if the land has been bought on the open market, it is generally not offered.

Mr KOBELKE: Proposed section 37I also covers the disposal of land. I suspect that it covers land that has not been acquired compulsorily under section 37H and that can be disposed of without first being offered to the original owner. What is the difference between those two proposed sections?

Mr KIERATH: Proposed section 37I deals with land that has already been acquired by the commission or other government bodies and that was not acquired for the purposes of bringing down a regional planning scheme. Proposed section 37I deals with the powers of the commission with regard to regional improvement plans, whereas the other proposed sections apply to landholdings in general.

Clause, as amended, put and passed.

Clauses 18 and 19 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

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

House adjourned at 10.26 pm

APPENDIX A

METROPOLITAN HEALTH SERVICE BOARD

Health Service Allocations
$(000)

Health Services	Final Budget 1997-98	Initial Budget 1998-99
	(1)	(3)
Fremantle	135 636.0	132 151.0
King Edward and Princess Margaret	138 740.9	138 720.2
Royal Perth	261 191.2	257 823.9
Sir Charles Gairdner	181 762.4	179 703.8
Armadale	26 764.2	30 756.3
Bentley	36 078.2	38 569.6
Kalamunda	8 463.8	9 148.6
North Metropolitan	44 248.3	45 465.4
Rockingham	20 089.4	18 961.7
Swan	32 910.2	33 990.6
Dental	32 576.7	32 294.6
Graylands	47 919.5	49 620.2
MHSB Office	1 200.0	1 536.9
Unallocated	0.0	9 811.4
TOTAL	967 580.8	978 554.2

FINANCIAL ALLOCATIONS ($000s)

COUNTRY HEALTH SERVICES

Health Service	1997-98	1998-99
Avon	9 031.3	9 754.8
Bunbury	21 901.5	25 282.4
Central Great Southern	7 137.4	7 808.7
Central Wheatbelt	5 250.2	5 376.8
East Pilbara	21 181.9	21 922.8
Eastern Wheatbelt	7 926.9	8 464.4
Gascoyne	12 337.5	13 003.1
**Geraldton	17 424.8	18 218.1
Harvey/Yarloop	2 802.1	2 997.6
Kimberley	40 177.2	41 431.1
Lower Great Southern	23 296.6	25 563.9
Midwest	5 467.3	5 805.9
Murchison	2 596.0	2 828.5
Northern Goldfields	29 627.0	30 749.0
Peel	11 154.9	8 389.9
South East Coastal	7 907.0	8 473.5
Upper Great Southern	13 091.0	13 507.1
Vasse Leeuwin	10 152.1	10 894.5
Warren Blackwood	8 850.1	9 619.7
Wellington	6 378.3	6 743.2
West Pilbara	12 361.7	12 615.3
**Western	5 312.2	5 645.9
TOTAL	281 365.0	295 141.2

Please note that financial allocations are made on a whole of health service basis and not by hospital.

For comparative purposes, these allocations include the exceptional episode insurance pool.

QUESTIONS ON NOTICE

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

VICTORIA QUAY REDEVELOPMENT

8. Ms MacTIERNAN to the Premier:

(1) What stakeholders were consulted during the development of the draft master plan for the redevelopment of the Western end of Victoria Quay?

(2) What input did the Fremantle community or general public have to the master plan as it was developed?

Mr COURT replied:

(1) Prior to the development of the current draft masterplan, a number of studies involving extensive community consultation, were commissioned to examine uses for the surplus Fremantle Port operational area at the western end of Victoria Quay. Amongst these studies was a report for the Australia II Steering Committee, identifying the Forest Landing location as the preferred site for a new Maritime Museum. The Committee comprised:

Mr Michael Kailis (Chair) - Chairman, Western Australian Maritime Museum Board
Mayor Jenny Archibald - Mayor of Fremantle
Ms Kerry Sanderson - Chief Executive Officer, Fremantle Port Authority
Mr Nick Burningham - Maritime Heritage Association
Capt David Clarke - Chairman, Port Operations Taskforce, Western Australian Department of Transport
Mr Graeme Henderson - Director, Western Australian Maritime Museum
Mr Ralph Hoare - President, The Fremantle Society Inc.
Ms Agnieshka Kiera
Mr Doug Kerr - President, Fremantle Chamber of Commerce
Mr Michael Pearson - Director, Strategic Planning & Policy, Government Property Office
Mr Andrew Reeves - Executive Director, Western Australian Museum
Mr Reece Waldock - Executive Director of Maritime Division, Western Australian Department of Transport

During the development of the draft masterplan, a variety of stakeholders were consulted including the Department of Transport, Westrail, Heritage Council, Fremantle Council, Fremantle Port Authority, WA Museum, TAFE, Department of Environmental Protection, Tourism Commission and a number of business and community groups.

(2) The draft masterplan was released for a three month public consultation period, in June 1998. In excess of 400 comments and submissions were received from a wide range of sources. These submissions are now being collated and analysed by the Urban Planners, and will be taken into account in the finalisation of the masterplan. In addition, towards the end of the public consultation period, a survey conducted by an independent market research firm indicated that close to 80% of the general public supported the proposed redevelopment of the Fremantle Waterfront.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

532. Mr BROWN to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) How much did each department and agency under the Premier's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Premier’s control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Premier's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Premier's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Premier's control plan to spend on -

(a) television advertising;
(b) radio advertising, and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr COURT replied:

I am advised that :

Ministry of the Premier & Cabinet

(1)	(a)	$203,625
	(b)	$266,273
(2)	(a)-(b)	Nil
	(c)	$123,157
(3)	(a)	Nil
	(b)	$19,800
	(c)	$135,563

Under Treasurer

(1)	(a)	$37 233.11
	(b)	$54 118.99
(2)	(a)-(b)	Nil
	(c)	$30 028.49
(3)	(a)-(b)	Nil
	(c)	$43 932.87

Anti-Corruption Commission

(1)	(a)	$7 131.23
	(b)	$28 271.74
(2)	(a)-(b)	Nil
	(c)	$7 131.23
(3)	(a)-(b)	Nil
	(c)	$28 271.74

Governor's Establishment

(1)	(a)	$1 801
	(b)	$2 608
(2)	(a)-(b)	Nil
	(c)	$1 801
(3)	(a)-(b)	Nil
	(c)	$2 608

Office of the Public Sector Standards Commissioner

(1)	(a)	CEO vacancies	$73 488 *fully recoverable from CEO's agency
		Staff vacancies	$5 666
		Other	$5 769
		TOTAL	$84 923
	(b)	CEO vacancies	$127 395 *fully recoverable from CEO's agency
		Staff vacancies	$1 240
		Other	$1 505
		TOTAL	$130 140
(2)	(a)-(b)	Nil	
	(c)	$82 900 **includes $73 488 for CEO vacancies	
(3)	(a)-(b)	Nil	
	(c)	$129 000 **includes $127 395 for CEO vacancies	

Note: Payments made for advertising CEO vacancies are made from a Trust Account held by the Office of the Public Sector Standards Commissioner. All costs are recouped from the CEO's agency.

Gold Corporation
(1) (a) $633 000*
(b) $926 000*

(2) Gold Corporation spent a total of $633 000* on advertising in 1996-97**

(3) Gold Corporation spent a total of $926 000* on advertising* in 1997-98**

Note: * Includes international advertising
** The Corporation's accounting records do not provide a split between television, radio and newspaper advertising. However, the Corporation undertakes minimal, if any, television and radio advertising.

Office of the Auditor General
(1) (a) $12 442
(b) $8 972

(2) (a)-(b) Nil
(c) $12 442

(3) (a)-(b) Nil
(c) $8 972

Public Interest Campaign (Listen To Your Head)
(1) (a) $112,557
(b) $819

(2) (a) $105,118
(b) $7,439
(c) Nil

(3) (a)-(c) Nil

Public Interest Campaign (Heroin Campaign)
(1) (a) Nil
(b) $186,652

(2) (a)-(c) Nil

(3) (a) $153,673
(b) $21,156
(c) Nil

Public Interest Campaign (Promoting WA Services)
(1) (a) Nil
(b) $46,120

(2) (a)-(c) Nil

(3) (a)-(b) Nil
(c) $40,308

Reflects design and production costs, and purchase of advertising space, for staff vacancy and other advertising of all agencies, including the Constitutional Centre and Centenary of Federation. Figures include advertising in the Government Gazette, Intersector Magazine, cinemas and non-newspaper publications.

All Agencies / Departments
(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

GOVERNMENT DEPARTMENTS AND AGENCIES

Advertising Expenditure

535. Mr BROWN to the Minister for Primary Industry; Fisheries:

(1) How much did each department and agency under the Minister's control spend on advertising in -

(a) the 1996-97 financial year; and
(b) the 1997-98 financial year?

(2) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1996-97 financial year?

(3) How much did each department and agency under the Minister's control spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1997-98 financial year?

(4) How much does each department and agency under the Minister's control plan to spend on advertising in the 1998-99 financial year?

(5) How much does each department and agency under the Minister's control plan to spend on -

(a) television advertising;
(b) radio advertising; and
(c) newspaper advertising,

in the 1998-99 financial year?

Mr HOUSE replied:

The Ministry has expended the following on the placement of government advertising. To provide detailed costings of production and other costs would require the direction of significant resources to provide this information. I am not prepared to allocate the resources required to provide this information. If, however, the member has a specific request regarding further costs associated with advertising, I would be prepared to consider the member's request.

AGRICULTURE WESTERN AUSTRALIA

(1)	(a)	96/97	$172,309	
	(b)	97/98	$262,037	
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$172,309
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$262,037

FISHERIES WESTERN AUSTRALIA

(1)	(a)	96/97	$114,682	
	(b)	97/98	$170,885	
(2)	(a)	96/97	Television	$0
	(b)	96/97	Radio	$0
	(c)	96/97	Newspapers	$114,682
(3)	(a)	97/98	Television	$0
	(b)	97/98	Radio	$0
	(c)	97/98	Newspapers	$170,885

(4)-(5) In the 1998-99 financial year, expenditure on advertising will be as required to meet needs and will be controlled to ensure that it is met from the existing resources of the organisations.

SCOTT FOUR COLOUR PRINT

627. Mr RIEBELING to the Premier:

(1) What Government contracts did Scott Four Colour Print receive in the following financial years -

(a) 1993-94;
(b) 1994-95;
(c) 1995-96;
(d) 1996-97; and
(e) 1997-98?

(2) What were the tender costs of each of these contracts?

(3) What were the final costs of each of these contracts?

(4) Which other companies tendered for these contracts?

Mr COURT replied:

I am advised that:

Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

Ministry of the Premier and Cabinet
(1) -(3)

Year	Contract	Tender Cost	Final Cost
1997/98	Reprint of 100 CEO Competency Frameworks and 400 SES Competency Frameworks	$10 765	$10 765
1996/97	Printing 500 CEO Competency Frameworks	$8 235	$10 235
	Printing 700 SES Competency Frameworks	$11 310	$11 895
	Printing 2 000 “Getting on Board” booklets	$11 290	$11 870
1995/96	Nil		
1994/95	Printing	$80	$80
	Business cards	$570	$570
	Printing of covers	$320	$320
	500 booklets	$1 250	$1 250
	Business cards	$365	$365
	2 000 Service guides	$780	$780
	1 000 Evaluation booklets	$2 055	$2 435
	2 500 Presentation folders	$2 480	$2 480
	1 000 Customer service charters	$710	$710
1993/94	Printing	$570	$570
	Printing	(*)	$695
	Printing	(*)	$2 775
	Printing	(*)	$1 395

(*) Documentation unable to be located.

Gold Corporation
(1)-(3) Various Gold Corporation publications have been printed by Scott Four Colour Print in the period between 1993 and 1998. However, this work has been performed under the direction of various creative agencies, and not under any contractual arrangements with Gold Corporation.

Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

Department of Commerce and Trade
(1) (a) Nil
(b) Printing of Department of Commerce and Trade Booklet
(c) Printing of the Annual Report
(d) 1. Printing of the Department of Commerce and Trade Annual Report
2. Photocopy and print the “People and Population” publication
(e) Nil.

(2) (a) Not applicable.
(b) $6,980
(c) $5,590
(d) 1. $6,250
2. $8,180

(3) (a) Not applicable
(b) $7,369
(c) $6,042
(d) 1. $7,837
2. $23,728. This included some agreed cost variations and substantial reprinting costs following very strong demand for this publication. The original quotation allowed for reprinting if required.

Kimberley Development Commission
(1) (a) Printing 1000 copies of “KDC Newsletter
(b) Printing 400 copies of document “Kimberley Population & Settlement”
(c)-(e) Nil

(2) (a) $385
(b) $4,260 respectively
(c)-(e) Not applicable.

(3) (a) $385
(b) $4,460
(c)-(e) Not applicable.

South West Development Commission
(1) (a) (i) Printing of Baudin Celebrations brochure
(ii) Printing of Bunbury Harbour City Report
(iii) Koombana Development Project brochure
(iv) Regional Profile document
(b) Bunbury Harbour City Report
(c) South West Strategy
(d)-(e) Nil

(2) (a) (i) $1,890
(ii) $3,380
(iii) $2,990
(iv) $3,800
(b) $3,450
(c) $12,900
(d)-(e) Not applicable

(3) The final costs did not differ from the quoted costs stated above.

Minister for Resources Development; Energy; Education:

Department of Resources Development
(1) (a)-(b) Nil.
(c) Production of Resource Maps.
(d) Nil.
(e) (i) Department of Resources Development Annual Report.
(ii) Ord Stage Two Brochure.

(2) (a)-(b) Not applicable.
(c) $950 per 1000 maps ordered.
(d) Not applicable.
(e) (i) $13 755.
(ii) $3 300 for 1000 copies.

(3) (a)-(b) Not applicable.
(c) $10 850 for 13 000 maps
(d) Not applicable.
(e) (i) $14 370.
(ii) $3 300

Office of Energy
(1) (a)-(b) Not applicable.
(c)-(d) None.
(e) Scott Four Colour Print were awarded the following contracts during 1997/98:
(i) Production of the Energy WA document in July/August 1997;
(ii) Production of Energy Matters No 7 in October 1997;
(iii) Production of 2 000 each of 5 Home Energy Line information brochures;
(iv) Production of the 1998 Awards Nomination brochure; and
(v) Production of the 1997 Award winners brochure.

(2) Tender costs for these contracts were, respectively:
(i) $21 695.
(ii) $7 345.
(iii) $4 602.
(iv) $1 370.
(v) $1 065.

(3) Final costs of these contracts were, respectively:
(i) $23 770
(ii) $7 345
(iii) $7 798 (additional 5 000 of each brochure were ordered prior to job commencement at an additional cost of $3 196, otherwise the final cost of the job was as quoted.)
(iv) $1 370.
(v) $1 110.

Western Power Corporation
(1) Western Power began operation on 1 January 1995
(a) Not applicable.
(b) 1 order.
(c) 3 orders.
(d)-(e) 4 orders.

(2)-(3) This information is commercially sensitive and is not given out to companies enquiring about tenders.

Education Department of Western Australia

(1)-(3)

Financial Year	Contract/ Order Number	Tendered Costs of each Contract ($)	Final Costs of each Contract ($)
1993-1994	5484	1 520	1 520
	5503	2 820	2 820
	6864	21 380	21 380
	7702	1 833	Not yet paid
	7867	3 040	3 040
	EDQC35/94-Formal Quote	22 988	32 153
	EDQ35/94-Formal Quote	20 384	25 161
	8122	12 404	12 404
Explanatory notes:	7702: The Education Department is investigating why this account has not been paid. Due to the need to access archived records, this process may take some time. EDQC35/94-Formal Quote and EDQ35/94-Formal Quote: the additional costs were due to the need to complete work not included in the original order.		
1994-1995	11031	1 900	1 900
	11191	2 940	2 940
	EDQC072/95-Formal Quote	20 370	20 370
	11646	43 402	43 402
	11684	7 672	7 672
	11685	11 231	11 231
	11687	7 917	7 917
	10632	5 450	5 450
1995-1996	11893	4 840	4 840
	12231	2 420	2 420
	12241	7 265	7 265
	EDQC187/95-Formal Quote	13 138	1 580 (part payment)
	13950	2 910	2 910
Explanatory notes:	EDQC187/95-Formal Quote: Scott Four Colour Print was awarded only one component of this order. That component was valued at $1 580. The balance of the order was completed by a different company.		
1996-1997	15094	1 120	1 200
	15152	2 010	2 010
Explanatory notes:	15094: the additional cost was due to a decision to use a slightly more expensive paper stock.		
1997-1998	17626	1 770	1 770
	516	9 045	9 045
	615	12 850	12 850
	173883	600	600

Minister for Primary Industry; Fisheries:

With the exception of Agriculture Western Australia and Fisheries Western Australia, whose details are listed here under, I am advised that no other agency within the portfolios of Primary Industry and Fisheries have had any dealings with this company.

Fisheries Western Australia

(1)-(3) Scott Four Colour Print has secured only one contract with Fisheries WA (then the Fisheries Department of Western Australia) to print *Western Fisheries*, a quarterly colour magazine produced by the Agency. This tender was 274A from the then State Supply Commission for eight editions of the magazine to be produced over 1994 and 1995.

Year	Contract	Tendered cost	Final costs
1993/4	274A	$110 560	$171 960
1994/5	nil		
1995/6	nil		
1996/7	nil		
1997/8	nil		

Agriculture Western Australia

(1) Agriculture Western Australia, through Contract and Management Services (CAMS), has awarded two contracts to Scott Four Colour Print. These are:

Contract 288/A1995
Contract 59/96

(2)-(3) Contract 288/A 1995 was awarded for $26,040. This contract was superseded by 59/96 which is ongoing and has incurred payments of $174,943.

Minister for Mines; Tourism; Sport and Recreation

Western Australian Tourism Commission
(1)-(3) During the financial years 1993/94 to 1997/98 only one contract was awarded to Scott Four Colour Print as follows:

Year	Tender Cost	Final Cost
1995/96	$16 500.00 plus corrections	$21 940.00

Rottnest Island Authority
(1)-(3) No contracts were awarded during the years 1993/94, 1994/95, 1995/96 and 1997/98.

Year	Tender Cost	Final Cost
1996/97	$10 744.00	$10 744.00

Ministry of Sport and Recreation & Recreation Camps and Reserves Board
(1)-(3) No contracts were awarded during the years 1993/94, 1994/95, 1995/96 and 1996/97.

Year	Tender Cost	Final Cost
1997/98	$16 140.00	$17 400.00

Western Australian Sports Centre Trust
(1)-(3) No contracts were awarded during the years 1993/94, 1994/95, 1995/96 and 1996/97.

Year	Tender Cost	Final Cost
1997/98	$131 883	$131 883

Minister for Transport:

Port Hedland Port Authority

(1)	(a)	1993-94	Nil.	
	(b)	1994-95	1994 Annual Report	$16 905.50
	(c)	1995-96	Cargo/Information Leaflets	$855.50
			Port Strategy Plan	$16 911.00
				$17 766.50
	(d)	1996-97	Reprint - Port Strategy Plan	$4 430.00
			Port Strategy Update Inserts	$1 300.00
				$5 730.00
	(e)	1997-98	Reprint Inserts	$660.00
			Presentation Folders using Strategy Plan Artwork	$2 090.00
				$2 750.00
(2)	(i)	Tender Price 1994 Annual Report		$15 637.00
	(ii)	Tender Price Port Strategy Plan		$13 335.00
	(iii)	Tenders were not called for reprints and updates.		

(3) As for (1)(a)-(e).

Bunbury Port Authority
(1) (a) Design and print Annual Reports (3 year contract) design and print Port Strategy.
(b) Design and print Annual Report.
(c) Design and print Annual Report (3 year contract).
(d)-(e) Not applicable.

(2) (a) $ 8 175 Annual Report, $15 920 Port Strategy.
(b) $ 9 710.
(c) $16 800.
(d)-(e) $ 7 200.

(3) (a) $ 9 634 Annual Report, $15 400 Port Strategy.
(b) $11 172 (2 000 copies)
(c) $16 800 (2 000 copies)
(d) $ 7 485 (1 000 copies)
(e) $ 8 740 (1 000 copies)

Dampier Port Authority
(1) The following payments were made for the provision of printing services for Annual Reports and Port handbooks:
(a) 1993/94 $13 080.
(b) 1994/95 $32 787

(c) 1995/96 Nil
(d) 1996/97 $ 9 700
(e) 1997/98 $10 230

(2)-(3) Quotes obtained as per State Supply Policy.

Fremantle Port Authority

(1)	1993/94	(i)	August 1993 - Print Port News.	
		(ii)	December 1993 - Print Port News.	
		(iii)	March 1994 - Print Port News.	
(2)	1993/94	(i)	August 1993 - quote value	$3 175
		(ii)	December 1993 - quote value	$3 175
		(iii)	March 1994 - quote value	$3 575
(3)	1993/94	(i)	August 1993 - final value	$3 175
		(ii)	December 1993 - final value	$3 175
		(iii)	March 1994 - final value	$3 575

Main Roads Western Australia

(1)	1993/94	4 contracts totalling $8 230.
	1994/95	Nil.
	1995/96	5 contracts totalling $8 226.
	1996/97	Nil.
(2)-(3)	1993/94	$1 600.
		$2 145.
		$3 200.
		$1 285.
	1995/96	$ 930.
		$ 930.
		$4 180.
		$1 101.
		$1 085.

Westrail

(1)-(3)	(a)-(b)	Nil.
	(c)	Printing of 1200 presentation certificates - $760.00.
	(d)	Printing of 1100 presentation certificates - $740.00.
	(e)	Nil.

Minister for the Environment; Labour Relations:

Western Australian Industrial Relations Commission:

(1)	(a)-(d)	Nil
	(e)	$800.00
(2)	$710.00	
(3)	$800.00	

Department of Environmental Protection:
(1)-(3) There have been 18 printing contracts let to Scott Four Colour Print since 1993/94.

Financial Year	Name of Job	Copies	Tender Cost	Final Cost
1993-94	DEP Annual Report 1993-94	2000	$10 650	$10 065
	EPA Annual Report 1993-94	2000	$2 640	$2 640
1994-95	DEP Annual Report 1994-95	500	$7 220	$7 480
	DEP Annual Report 1994-95 (Highlights)	1000	$2 200	$2 245
	EPA Annual Report 1994-95	1500	$3 400	$3 415
	Energy-Efficient Environment-Friendly Office Equipment	2000	$5 220	$5 220
	Energy-Efficient Environment-Friendly Office Equipment (Reprint)	1000	$2 765	$2 765

	The Recycled Products Buyers Guide	2000	$5 000	$5 000
	Customer Focus Brochure	5000	$2 155	$2 200
1995-96	Managing Perth's Bushland *	1000	$19 185	$19 475
	Western Australia's Intractable Waste Disposal Facility	2000	$3 845	$3 845
	Customer Focus Brochure (Reprint)	5000	$2 000	$2 000
1996-97	Southern Metropolitan Coastal Waters Study - Final Report	700	$14 653	$15 500
	Southern Metropolitan Coastal Waters Study - Summary Report	3000	$6 490	$5 700
	Contaminated Sites - Position Paper	2000	$6 420	$6 515
	Contaminated Sites - Discussion Paper	1000	$2 860	$2 955
	Contaminated Sites - Position Paper (Reprint)	1000	$3 600	$3 600
1997-98	Environmental Protection of Cape Range	1000	$3 450	$3 490

* This publication was produced by a number of agencies and paid for by Greening Western Australia.

Department of Productivity and Labour Relations:

(1)
1993-94 Nil.
1994-95 Nil.
1995-96 Work & Family: makes cents booklet
Workplace Focus newsletter
Snakes and Ladders booklet.
1996-97 New edition of Work & Family; makes cents booklet.
1997-98 Work & Family Newsletter .

(2) DOPLAR has not entered into any contracts with Scott Four Colour Print through the tendering process. A number of printing jobs have been undertaken on the basis of quotes being sought from three or four printers and the most suitable quote being accepted.

(3)
1995-96: Work & Family: makes cents booklet - $8,950.00.
Workplace Focus newsletter- $2,680.00.
Snakes & Ladders booklet - $6725.00.
1996-97: New edition of Work & Family; makes cents booklet - $1,420.00.
1997-98: Work & Family Newsletter - $1,375.00.

Department of Conservation and Land Management:

Financial Year	Name of Job	Tender Cost	Final Cost
1993-94	Annual Report 92/93	$6060	$6240 (extra films)
	Family Walks in Perth Outdoors	$19295	$19295
	Family Walks Order form	$1035	$1035
	Bibbulmun Track Guide	$8035	$8035
	Yanchep Activities Guides	$1425	$1425
	Shark Bay Brochures	$1130	$1130
	CalmScience V1 N1	$5490	$5490
	Kalbarri Brochures	$2020	$2020
	Landscope Fire Reprint	$2330	$2330

	Nuytsia V9 N3	$4260	$4270 (calculation error)
	Uniform catalogue	$4520	$4520
	Swamped with Birds booklet	$1440	$1440
1994-95	Walks Flyer	$1020	$1020
	More Family Walks in Perth Outdoors	$18995	$21155 (extra copies)
	Hills Forest Mag Paper	$12170	$12330 (extra films)
	Nuytsia V10 N1	$4260	$4490 (extra films)
	Karijini Calling	$1820	$1885 (calculation error)
1995-96	Nuytsia V10 N2	$5360	$5360
	Dive and Snorkel	$17840	$18720 (extra films)
	Dive and Snorkel Book Flyer	$1040	$1040
	Landscope Calendar 96	$25265	$25265
	Tree Tower Experience souvenir card	$1353	$1853 (calculation error)
	Discovering Penguin Island	$7420	$7460 (calculation error)
	Mammals of South West	$12755	$13180(extra films)
	Whales and Dolphins	$7840	$7840
	Nuytsia V10	$4910	$4910
	Stirling Range Brochure	$1890	$1840 (extra films)
	Tree Tower Passport	$1440	$1570 (extra films)
	Kimberley Parks Newspaper	$12620	$12620
	Pilbara Parks Mag Paper	$4365	$4305 (extra films)
	Western Shield Action Pack	$3855	$3855
	Family Walks Reprint	$11160	$11160
	Bibbulmun Track Guide Reprint	$7510	$7510
1996-97	Facts about WA Forests	$10487	$10487
	Dwellingup Flyer	$1355	$1355
	Kalbarri Reprint	$1830	$1830
	Touring WA Newsletter	$2790	$2790
	Landscope Calender 97	$19445	$19440
	Sharefarming Inserts	$1235	$1415 (extra copies)
	Sharefarming Folders	$3295	$2705
	Sharefarming Brochures	$1450	$1450

	Sharefarming Lower West-Coast print	$5470	$5470
	Landscope Fire Reprint	$1040	$1080 (extra films)
	Tourism Newsletters	$2370	$2370
	Yanchep Promotional Card	$3040	$1940
	Intriguing on the Outside	$3340	$3340
	Branch out with CALM	$1080	$1080
	Sharefarm Folders	$3160	$3160
	Branch out with CALM Bluegums	$1320	$1320
	Western Shield Action Packs	$1995	$1995
	Shark Bay Marine Park Brochure	$7000	$7000
	Noisy Scrub Bird Posters	$1320	$1320
	Yanchep National Park	$7700	$8020 (extra copies)
1997-98	Kalbarri Brochure	$1960	$1960
	Dwellingup Heritage Festival Brochure	$1890	$1940 (extra films)
	Bushwalks of South West	$21160	$21700 (extra films)
	Western Shield Newsletter	$2370	$3170 (extra copies and films)
	Karri Country Mag Paper	$22970	$22970
	Personnel Cards	$1030	$1030
	Christmas Cards	$1000	$1000
	Nambung Brochure	$5665	$5665
	Branch out with CALM	$2425	$2565 (extra copies)
	Fitzgerald National Park Brochure	$2250	$2420 (extra copies)
	Land Wildlife Brochure	$1190	$1190
	New Horizons	$9395	$7740
	Sharing the Dreaming	$4240	$4170 (extra copies)
	Dreamtime folders	$3820	$3760 (extra films)
	Leeuwin Mag Paper	$11490	$12635 (extra copies and films)
	Touring Newsletter base stock	$1390	$1390
	Your guide to WA national parks brochure	$11160	$11320 (extra inserts)

Kings Park and Botanic Garden:

(1)-(3) Printing service work was awarded to Scott Four Colour Print during the following financial years

(a)	1993/94	Reprints of Bushland Card and photo prints	$1095.00
(b)	1994/95	As above	$2975.00 ($1195.00 + $1780.00)

(c)	1995/96	As above	$905.00
		Annual report	$3810.00
(d)	1996/97	Annual report	$3990.00
		Reprints of "A Guide To the Bushland Plants of Kings Park"	$22970.00
(e)	1997/98	Reprints of Bushland Card and photo Prints	$1455.00

Commissioner of Workplace Agreements

(1) The Office of The Commissioner of Workplace Agreements has not entered into any Tendering processes with Scott Four Colour Print. Printing requirements for The Commissioner of Workplace Agreements have been obtained through the quoting process.
(a)-(c) Nil.
(d) Printing of "Here are the FAQS" brochures
(e) Printing of "Here are the FAQS" brochures
Printing of the office's "Code of Conduct"

(2)	1996/97:	"Here are the FAQS" brochures	$760
	1997/98:	"Here are the FAQS" brochures	$835
		"Code of Conduct"	$760

(3) 1996/97 $760
1997/98 $1595

WorkSafe Western Australia:
(1)-(3)

Financial Year	Description	Scott's Actual	Scott's Tender
1993-94	40,000 * 5 Manual Handling Pamphlets	9 680.00	9 680.00
	10,000 Asbestos Cement Building Products	1 080.00	1 080.00
	5,000 Noise Control in the Workplace COP	7 195.00	7 195.00
	5,000 Legionnaires Disease COP	4 200.00	4 200.00
	20,000 General Duty of Care	14 225.00	14 225.00
1994-95	Reprint Tractor Safety	1 260.00	1 260.00
	2,000 Safe Use of Farm Tractors	1 910.00	1 910.00
	2,000 Toolbox Topic	6 800.00	6 800.00
	10,000 Certification Pamphlets	1 370.00	1 370.00
	50,000 JobSafe News 95	11 280.00	11 280.00
	Annual Report 93/94	10 730.00	10 730.00
	5,000 SHHH Booklets	3 930.00	3 930.00
	14,000 average per print of SafetyLine Magazine print for 1995 (4 editions)	9 147.00 (average)	11 250.00 (average)
1995-96	3,000 Manual Handling Code of Practice	5 095.00	5 095.00
	10,000 General Duty of Care	15 850.00	15 850.00
	14,000 average per print of SafetyLine Magazine print for 1996 (4 editions)	8 308.00 (average)	9 400.00 (average)
1996-97	14,000 average per print of SafetyLine Magazine print for 1997 (3 editions)	7 239.00 (average)	10 350.00 (average)
1997-98	10,000 Making the WorkPlace Safe	7 165.00	7 075.00
	14,000 average per print of SafetyLine Magazine print for 1998 (4 editions)	8 883.00 (average)	9 670.00 (average)

Minister for Finance; Racing and Gaming:

Burswood Park Board
(1) (a) 1993/94 printing golf scorecards, letterheads and envelopes
(b) 1994/95 printing golf scorecards
(c) 1995/96 -Nil
(d) 1996/97 -Nil
(e) 1997/98 -Nil

(2)-(3) 5,000 letterheads, 2000 envelopes $1,155
30,000 golf scorecards $1,700
30,000 golf scorecards $1,700
50,000 golf scorecards $2,875

Lotteries Commission
(1) The Lotteries Commission has not awarded Scott Four Colour Print contracts from 1993 to 1998. The company was, however, awarded the printing of the Lotteries Commission's Annual Report through the designers responsible for the production of the Report in 1997.

(2) 1996/97 Annual Report printing $11,350

(3) Not applicable.

Government Employees Superannuation Board
(1)-(3) No contracts were entered into with Scott Four Colour Print. However the Board paid the company $11,795 in 1997/98 for printing the 1997 Annual Report which was arranged independently by the designer.

Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

Department of Land Administration
(1) The Department of Land Administration awarded contracts to Scott Colour Print as follows:
(a)-(b) Nil
(c) (i) Printing of Land Sales brochures.
(ii) Scanning of aerial photographs.
(iii) Printing of Ledge Point Land Sales brochures.
(iv) Scanning of aerial photographs.
(v) Scanning of aerial photographs.
(d) (i) Printing of Jurien Bay Land Sales brochures.
(ii) Printing of Kalbarri Land Sales brochures.
(iii) Printing of Pilbara and Murchison Maps.
(e) Nil

(2) (a)-(b) Not applicable.
(c) (i) $535.00
(ii) $22,271.20
(iii) $2,160
(iv) $1,819.50
(v) $1,785.00
(d) (i) $2,260.00
(ii) $1,640.00
(iii) $2,260.00
(e) Not applicable.

(3) (a)-(b) Not applicable.
(c) (i) $535.00
(ii) $22,747.50 ($475.80 over tender)
(iii) $2,160.00
(iv) $1,819.50
(v) $1,785.00
(d) (i) $2,260.00
(ii) $1,640.00
(iii) $2,260.00
(e) Not applicable.

LandCorp
(1) (a) 1993-94 Nil
(b) 1994-95 Nil
(c) 1995-96 Printing Industrial Brochures
(d) 1996-97 Nil
(e) 1997-98 Printing Industrial Brochures

(2) (a) 1993-94 Nil
(b) 1994-95 Nil
(c) 1995-96 $9,570
(d) 1996-97 Nil
(e) 1997-98 $7,920

(3) Final costs as stated in (2) above.

Minister for Police; Emergency Services:
WA Police Service (WAPS)
(1) (a) Nil.
(b) Scott Four Colour Print received one contract from the WAPS in the 1994-95 financial year. This contract was managed by the State Supply Commission (SSC), now known as Contract and Management Services (CAMS), and was for the printing of 60,228 Drive Safe booklets.
(c)-(e) Nil.

(2) The tender cost was $60, 754.99.

(3) The final tender cost was $60,754.99

Attorney General; Minister for Justice; the Arts

Art Gallery of Western Australia
(1)-(3) Scott Four Colour Print received the following contracts from the Art Gallery of Western Australia in the financial years 1993-94 to 1997-98.

Year	Description	Tender Price	Actual Cost
1993-94	*Karl Weibke Painting 1971-1993* exhibition, catalogue, leaflets, posters, invitations	$13 012	$13 012
	Brian Blanchflower exhibition, leaflets	$1 995	$1 995
	Major donor commemorative brochure 2000	$2 300	$2 300
1994-95	*Passion and Patronage: A century of donations in Crafts and Decorative Arts* exhibition, catalogue, invitations, leaflets	$6 165	$6 270
	One Hundred Years:WA Sculpture 1895-1995 exhibition, catalogue, invitations, leaflets	$13 620	$14 240
	Gallery programs brochure	$6 800	$6 800
	A Century of Australian Masterpieces: Colonial and Impressionist Paintings from the Art Gallery of South Australia 1800-1900 exhibition leaflets	$2 540	$2 540
1995-96	Gallery programs brochure 1995/96	$13 000	$13 000
	Jimmy Pike - Desert Designs 1981-1995 exhibition leaflets and catalogue	$38 000	$38 520
	Gallery programs brochure	$5 000	$5 000
	Port to Port exhibition catalogues, posters	$7 740	$7 740
1996-97	*Annie Leibovitz Photographs 1970-1994* exhibition brochures	$3 690	$3 690
	Kandinsky and the Russian Avant Garde exhibition leaflets, invitations, posters	$4 084	$4 084
	Treasures of New Norcia - A Monastery in the Bush exhibition invitations, leaflets	$3 190	$3 190
	Gallery programs brochure	$11 560	$11 560
	Modern Masters from the Museum of Modern Art, New York: The William S Paley Collection exhibition leaflets, posters	$4 710	$4 710
	Gallery programs brochure	$4 680	$4 680

	AGWA general leaflet 100,000 copies	$8 800	$8 800
	Gallery programs brochure	$4 200	$4 200
1997-98	*The Japan Inspiration: Influence in Crafts and Design* exhibition brochures	$1 865	$1 865
	Eve Arnold/Dorothea Lange exhibition tickets, cards, bookmarks	$12 730	$13 209
	Gallery programs brochure	$12 360	$12 360

Library and Information Service of Western Australia
(1) (a)-(d) Nil.
(e) Digitization and Scanning of Photographic Negatives

(2) (a)-(d) Not applicable.
(e) 250 items at $1865.

(3) (a)-(d) Not applicable.
(e) 500 items at $3730.

Western Australian Museum
(1) (a) Marine Fishes of North-West Australia.
(b) Reprint Marine Fishes of North-West Australia.
(c)-(d) Nil.
(e) The Arts & Cultural Guide

(2) (a) $19,990
(b) $15,600
(c)-(d) Not applicable.
(e) $23,860

(3) (a) $21,171 (after book bounty)
(b) $14,646 (after book bounty)
(c)-(d) Not applicable.
(e) $23,860

Corporate Services
(1) (a)-(c) Nil.
(d) Printing of 95/96 Annual Report
(e) Printing of 96/97 Annual Report

(2) (a)-(c) Not applicable.
(d) $7,750
(e) $6,950

(3) (a)-(c) Not applicable.
(d) $7,750
(e) $7,580

Public Trust Office
(1) (a)-(c) Brochures advertising the services provided by the Public Trust Office.
(d)-(e) Nil.

(2)-(3)	(a)	Breakdown of each contract:	$1,160
			$195
			$700
			$1,360
			$1,380
			$1,080
			$1,380
			$1,810
			$585
			$880
			$620
			$735
			$480
			$575
		Total value of contracts for brochures:	$17,324
	(b)	Breakdown of each contract:	$2,123
			$80
			$1,885

			$2,390
			$1,420
			$3,760
			$1,524
			$4,885
			$200
			$3,400
			$1,455
			$1,545
			$1,890
			$780
			$65
			$1,190
		Total value of contracts for brochures:	$28,592
	(c)	Breakdown of each contract:	$1,620
			$1,790
			$1,045
			$1,620
			$90
			$1,950
		Total value of contracts for brochures:	$8,115
	(d)-(e)	Not applicable.	

Public Affairs Branch

(1) (a)-(c) Nil.
(d) (i) Prison Officer Recruitment Information Booklet and application form
(ii) Juvenile Justice series of information brochures
(e) HIV information brochure

(2) (a)-(c) Not applicable.
(d) (i) $4,590
(ii) $16,076
(e) $495

(3) (a)-(c) Not applicable.
(d) (i) $4,990
(ii) $16,076
(e) $495

Equal Opportunity Commission

(1) (a) Investigation Reports
(b) Brochures, Annual Report and Guides
(c) Guides
(d) Annual Report
(e) Information Briefs, Newsletters and Annual Report

(2)	(a)	Investigation Reports:	$4,465
	(b)	Brochures:	$22,245
		Annual Report:	$4,940
		Guides:	$4,365
	(c)	Guides:	$2,040
	(d)	Annual Report:	$5,550
	(e)	Newsletters:	$2,720
		Information Briefs:	$10,100
		Annual Report:	$6,210

(3)	(a)	Investigation Reports:	$4,940
	(b)	Brochures:	$22,245
		Annual Report:	$4,940
		Guides:	$4,940
	(c)	Guides:	$2,040
	(d)	Annual Report:	$6,000
	(e)	Newsletters:	$3,616
		Information Briefs:	$7,941
		Annual Report:	$9,036

Minister for Planning; Employment and Training; Heritage:

Office of the Minister for Planning; Employment and Training; Heritage

(1) (a)-(c) Nil.
(d) Printing of cards and envelopes

(2) Not applicable.

(3) $865

Ministry for Planning

(1)	(a)	Ministry for Planning	$ 17 825
		Western Australian Planning Commission	$ 97 969
	(b)	Ministry for Planning	$ 42 122
		Western Australian Planning Commission	$ 29 590
	(c)	Ministry for Planning	$ 15 050
		Western Australian Planning Commission	$117 305
	(d)	Ministry for Planning	$ 14 495
		Western Australian Planning Commission	$157 293
	(e)	Ministry for Planning	$ 26 120
		Western Australian Planning Commission	$154 755

(2) The Ministry for Planning complies with the State Supply Commission's supply policy manual (see 1.3 Quotations and Public Tenders). All Ministry purchases valued between $5000 to $50 000, written quotations are obtained. Where the estimated value exceeds $50 000 per line item, public tenders are called. The figures provided in (1) do not include any line item which exceeds $50 000, therefore, no tendering was required.

(3) See (1) for final yearly costs.

East Perth Redevelopment Authority

(1) (a)-(c) Nil.
(d) Printing of brochures.
(e) Nil.

(2) Not applicable.

(3) $1 475

Western Australian Department of Training

(1) (a)-(c) The information requested by the member would take some time to collate. I am not prepared to direct considerable resources to obtain this information. However, if the member has a specific query I will have the matter investigated.
(d) Three contract as follows:
WADT 253
WADT 275
WADT 280
(e) Nil.

(2)

WADT 253	$ 6 510
WADT 275	$ 6 512
WADT 280	$20 970

(3)

WADT 253	$ 6 510
WADT 275	$ 7 483
WADT 280	$20 970

West Coast College of TAFE

(1) (a)-(d) Nil.
(e) 5 Contracts.

(2)
$21 549
$ 3 970
$ 1 225
$37 670
$ 625

(3)
$22 434
$ 5 656
$ 1 285
$38 220
$ 625

South East Metropolitan College of TAFE

(1) (a)-(d) Nil.
(e) 1 Contract

(2)-(3) $1 478

Minister for Housing, Aboriginal Affairs, Water Resources:

(1) (a)-(d) Not applicable.
(e) Printing of 2000 copies of Swan-Canning Cleanup Program Draft Action Plan - Summary for the Swan River Trust.

(2)-(3) $1,070.

Minister for Health:

(1) (a) (i) Quit Smoking booklet
(ii) Quit smoking manual - You can do it
(iii) Recipe cards
(iv) Self Help Quit manuals
(b)-(c) Nil.
(d) (i) HDWA Annual Report covers
(e) (i) Quit Smoking booklet
(ii) Drug Aware Parent booklet
(iii) Reducing Alcohol Consumption booklet
(iv) Quit Smoking booklet (reprint)
(v) Reducing Alcohol Consumption booklet

(2)-(3) (a)

ITEM	2) TENDER/QUOTE	3) FINAL COST
i	$13,980	$13,980
ii	$20,800	$20,800
iii	$ 8,195	$ 8,195
iv	$14,158	$14,158

(d)

ITEM	2) TENDER/QUOTE	3) FINAL COST
i	$2,055	$2,055

(e)

ITEM	2) TENDER/QUOTE	3) FINAL COST
i	$24,705	$27,365
ii	$ 5,900	$ 5,900
iii	$ 8,600	$ 8,600
iv	$16,955	$16,800
v	$ 5,600	$ 4,704

Minister for Works; Services; Citizenship and Multicultural Interests; Youth:

Department of Contract and Management Services

(1) The Department of Contract and Management Services awarded the following contracts to Scott Four Colour Print:
(a) 274A1993 Advertising and Production of Western Fisheries Magazine on behalf of the Fisheries Department.
(b) 642A1994 Printing of 60,000 "Drive Safe" Booklets on behalf of Western Australia Police Service.
(c) 288A1995 Printing of a full colour quarterly *Journal of Agriculture* on behalf of the Department of Agriculture.
(d) RFP59/96 Outsourcing of Information Services-Provision of Graphic Design Services (panel contract) on behalf of Agriculture Western Australia.
(e) Nil.

(2) (a) Total awarded price $110 560.
(b) Total awarded price $60 754.99
(c) Total awarded price $104 160.
(d) The awarded price was based on a maximum hourly rate of $63.70, subject to quotations.

(3) (a) This information should be sought from the Fisheries Department.
(b) This information should be sought from the Western Australia Police Service.
(c)-(d) This information should be sought from Agriculture Western Australia.

Minister for Local Government; Disability Services:

Disability Services Commission

(1) (a)-(b) Nil
(c) Fifteen (15) minor printing jobs
(d) One (1) minor printing job
(e) Seven (7) minor printing jobs

(2) The tender costs for each of the contracts were the same as the final costs.

(3) (a)-(b) Not applicable.
(c) (1) $300
(2) $425
(3) $1530
(4) $650
(5) $390
(6) $1450
(7) $380
(8) $1720
(9) $250
(10) $350
(11) $310

		(12)	$310
		(13)	$1410
		(14)	$390
		(15)	$395
(3)	(d)	(1)	$365
	(e)	(1)	$480
		(2)	$605
		(3)	$1190
		(4)	$820
		(5)	$630
		(6)	$575
		(7)	$460

Department of Local Government

(1)-(3)	(a)	City of Perth Restructuring Brochure and Distribution		
		Printing	-	$20,003
		Distribution	-	$59,955.47
		Total	-	$79,958.47
	(b)	None.		
	(c)	Local Government Act brochure	-	$20,930
	(d)	Local Government Act brochure	-	$535
	(e)	Grants Commission Annual Report	-	$2,690

Minister for Family and Children's Services; Seniors; Women's Interests:

Office of Seniors Interests

(1)	(a)-(d)	None.
	(e)	Seniors Card Discount Directory (two contracts)
(2)	(i)	$ 5,245.00
	(ii)	$49,990.00
(3)	(i)	$ 5,245.00
	(ii)	$49,990.00

All Ministers, Agencies and Departments

Details of unsuccessful tenders shall remain confidential in accordance with State Supply Commission Policy 1.3 "Quotations and Public Tenders".

HOUSING

Social Mix Policy

635. Ms WARNOCK to the Minister for Housing:

(1) Is the Minister aware of the clear need by a range of people with special needs to be housed in the inner western suburbs of Perth so that they are close to medical facilities and their families for support?

(2) What provision is the Government making for these people in the inner city redevelopment such as Subiaco?

(3) If none, why not?

(4) Does the Government support the notion of a social mix within localities including inner city areas?

(5) If so, what strategies are in place to ensure that existing socioeconomic profiles within the western suburbs are maintained and enhanced?

(6) How will the new Ministry of Housing guarantee a Whole-of-Government approach to the provision of affordable housing for low income people in Western Australia?

(7) Will the proposed Office of Policy within the new Ministry be the co-ordination point for a comprehensive Government approach to social housing?

(8) What links will there be between the new Office of Policy and the Western Australian Planning Commission, LandCorp and Departments of Health, Disability Services, Family and Children's Services, Aboriginal Affairs and Local Government?

(9) Does the Minister consider that the indicated staffing level for the Office of Policy of two people will be sufficient to ensure its effective delivery of policy advice?

Dr HAMES replied:

(1) Yes. In order to assist special needs people as well as others who require accommodation in this area, Homeswest has accommodation in the suburbs of Subiaco, West Perth, East Perth, Perth City, Highgate, Daglish, Glendalough, Wembley, Jolimont and Shenton Park.

(2) Homeswest is currently negotiating with the City of Subiaco to obtain a site for the possible development of eighteen units of accommodation for seniors, families and/ or people with disabilities within the Subiaco Redevelopment area. Homeswest has been successful in obtaining accommodation in the East Perth Redevelopment area. A nineteen unit joint venture development with Perth Inner City Housing Association is planned for Haig Park. The project is in the 1998/99 Building Program and is currently at the development approval stage. The project includes approximately five units to be utilised under the Community Disability Housing Program (CDHP). In addition, Homeswest will also be constructing the following unit developments in the inner city during 1998/99:-

East Perth	21 Seniors Units 9 x 1 bedroom 12 x 2 bedroom
East Perth	15 Units 6 x 2 bedroom family 9 x 1 bedroom singles
Highgate	12 Units 12 x 1 bedroom singles including two units for CDHP

(3) Not applicable.

(4) Yes.

(5) All of Homeswest's rental assistance and purchase programs are based on client choice, as far as possible. Applicants for rental accommodation, either under mainstream or community housing, nominate a zone in which they wish to live. Homeswest makes an allocation of accommodation within that zone. Under Homeswest's purchase programs, clients can either purchase a property from the private market or a Homeswest property. Where the purchase involves a private property, the area is at the discretion of the client. Where the client purchases a Homeswest property, they are provided with a choice of properties available in a number of areas. Homeswest recognises that there will always be demand for its accommodation in inner city areas and is committed to maintaining a presence in these localities. Through the New Living Program, Homeswest will be redeveloping inner city areas such as Glendalough, Como and East Victoria Park. This will enable Homeswest to replace older, high maintenance/low amenity housing with new housing which meets the demographics of the Homeswest client base. Homeswest will also make use of favourable zonings and the Government's sewer infill program to create additional lots for either use in Homeswest's rental program or sale to the private sector.

(6)-(9) Establishment of the Ministry of Housing is still only in the initial stages. Public Submissions closed on 14 September 1998 and the Implementation Taskforce has considered all submissions as well as presentations from relevant stakeholders. The Taskforce has recently provided me with its final report and recommendations which I am currently considering.

GOVERNMENT DEPARTMENTS AND AGENCIES

Compliance with Section 175ZE of the Electoral Act

654. Mr RIEBELING to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

(1) Which public agencies within the Premier's portfolios are required to comply with section 175ZE ("the section") of the Electoral Act 1907?

(2) Which of those agencies included the required statement in their annual report?

(3) Which of those agencies did not include the required statement in their annual report?

(4) In respect of those agencies which did not include the required statement, will the Premier require the agencies to amend their annual report to include the required statement?

(5) In the case of those agencies which did not include the required statement, why did they not include it?

(6) What is the amount of expenditure incurred by or on behalf of each such agency in relation to the matters set out in the section 175ZE -

(a) in the 1996-97 reporting period;
(b) in the 1997-98 reporting period; and
(c) in the current reporting period to date?

(7) What is the name and address of each advertising agency, market research organisation, polling organisation and direct mail organisation on which expenditure has been incurred since 1 July 1996 by or on behalf of each agency?

(8) When was that expenditure incurred?

(9) What was the value of the expenditure incurred in each case?

(10) What is the nature and content of the advertising, market research, polling or direct mail services provided by each agency and organisation on each occasion?

(11) What was the name of the officer incurring each item of expenditure?

(12) What was the name of the certifying officer in relation to each item of expenditure?

(13) What is the name of the principal officer in each agency responsible for ensuring that the statement required under section 175ZE is included in the agency's annual report?

Mr COURT replied:

I am advised that :

Ministry of the Premier and Cabinet
(1) The Ministry of the Premier and Cabinet.

(2) The Ministry of the Premier and Cabinet has included the required information in its yet to be tabled annual report for 1997/98.

(3) The Ministry of the Premier and Cabinet has not included the information required by Section 175ZE in previous annual reports.

(5) Not applicable.

(13) The principal officer for 1997/98 was Mr Malcolm Wauchope.

Under Treasurer
(1)-(2) Treasury Department.

(3)-(5) Not applicable.

(13) The Under Treasurer.

Anti-Corruption Commission
(1) The Anti-Corruption Commission is required to comply with section 175ZE of the Electoral Act 1907.

(2)-(3),(5)
In 1996/97 the Commission did not incur expenditure for matters set out in Section 175ZE and therefore did not include a statement in its Annual Report for that year. No expenditure of this nature was incurred in 1997/98 and therefore a statement will not be included in the Annual Report tabled for that year.

(13) The Chairman, Mr Terence O'Connor QC, is the principal officer.

Governor's Establishment
(1) Governor's Establishment.

(2) No.

(3) Yes.

(5) Included statement in general terms re: Open Days.

(13) Kevin Skipworth, Official Secretary.

Office of the Public Sector Standards Commissioner
(1) The Office of the Public Sector Standards Commissioner is required to comply with section 175ZE of the Electoral Act 1907.

(2) The Office of the Public Sector Standards Commissioner includes the required statement in its 1997/98 Annual Report.

(3),(5) Not applicable.

(13) Glen McAullay, Principal Accounting Officer, Ministry of the Premier and Cabinet.

Gold Corporation
(1) Gold Corporation is required to comply with Section 175ZE of the Electoral Act.

(2) Gold Corporation's 1997-98 Annual Report is still being drafted.

(3),(5) Not applicable.

(13) The Chief Executive Officer.

Office of the Auditor General
(1) This Office is required to comply.

(2)-(3),(5)
The use of marketing agencies to survey Parliament and Agencies was referred to in the Office's 1996-97 Annual Report (page 7), however the cost and name of the organisations used was not provided.

(13) Mr D D R Pearson, Auditor General.

All Agencies / Departments

(4),(6)-(12)
Section 175ZE of the Electoral Act requires that all public agencies publish annually information on expenditure on advertising, market research, polling, direct mail and media advertising. This section came into force in October 1996 and has only operated since then. The Western Australian Treasury was advised a number of months ago by the Western Australian Electoral Commission of this requirement which was then noted in the instructions to agencies for the preparation of Annual Reports. In the Political Finance Report 1997, tabled 12 August 1998, the Electoral Commissioner recommended:

> That section 175ZE of the Electoral Act 1907 regarding reporting on electoral expenditure by public agencies be moved to a more appropriate piece of legislation such as the Financial Administration and Audit Act 1985.

The Government intends to give early and favourable consideration to this, and bring forward the necessary amendments to the Electoral Act. All agencies in my portfolio are now aware of the requirement to meet the provisions of section 175ZE of the Electoral Act, and henceforth will be providing the appropriate information. However, I am not prepared for agencies to devote the considerable resources necessary to retrospectively prepare this report, and in particular to provide the level of detail requested. If the member has a question in relation to a specific advertising contract I will endeavour to provide the information.

GOVERNMENT DEPARTMENTS AND AGENCIES

Compliance with Section 175ZE of the Electoral Act

662. Mr RIEBELING to the Minister for Housing; Aboriginal Affairs; Water Resources:

(1) Which public agencies within the Minister's portfolios are required to comply with section 175ZE ("the section") of the Electoral Act 1907?

(2) Which of those agencies included the required statement in their annual report?

(3) Which of those agencies did not include the required statement in their annual report?

(4) In respect of those agencies which did not include the required statement, will the Minister require the agencies to amend their annual report to include the required statement?

(5) In the case of those agencies which did not include the required statement, why did they not include it?

(6) What is the amount of expenditure incurred by or on behalf of each such agency in relation to the matters set out in the section 175ZE -

(a) in the 1996-97 reporting period;
(b) in the 1997-98 reporting period; and
(c) in the current reporting period to date?

(7) What is the name and address of each advertising agency, market research organisation, polling organisation and direct mail organisation on which expenditure has been incurred since 1 July 1996 by or on behalf of each agency?

(8) When was that expenditure incurred?

(9) What was the value of the expenditure incurred in each case?

(10) What is the nature and content of the advertising, market research, polling or direct mail services provided by each agency and organisation on each occasion?

(11) What was the name of the officer incurring each item of expenditure?

(12) What was the name of the certifying officer in relation to each item of expenditure?

(13) What is the name of the principal officer in each agency responsible for ensuring that the statement required under section 175ZE is included in the agency's annual report?

Dr HAMES replied:

(1) Aboriginal Affairs Department, Aboriginal Affairs Planning Authority, Government Employees Housing Authority, Homeswest, Office of Water Regulation, Water and Rivers Commission and Water Corporation.

(2) Office of Water Regulation.

(3) Aboriginal Affairs Department, Aboriginal Affairs Planning Authority, Government Employees Housing Authority, Homeswest, Water and Rivers Commission and Water Corporation.

(4),(6)-(12)
Section 175ZE of the Electoral Act requires that all public agencies publish annually information on expenditure on advertising, market research, polling, direct mail and media advertising. This section came into force in October 1996 and has only operated since then. The Western Australian Treasury was advised a number of months ago by the Western Australian Electoral Commission of this requirement which was then noted in the instructions to agencies for the preparation of Annual Reports. In the Political Finance Report 1997, tabled 12 August 1998, the electoral commissioner recommended:

> That section 175ZE of the Electoral Act 1907 regarding reporting on electoral expenditure by public agencies be moved to a more appropriate piece of legislation such as the Financial Administration and Audit Act 1985.

The Government intends to give early and favourable consideration to this, and bring forward the necessary amendments to the Electoral Act. All Agencies in my portfolio are now aware of the requirement to meet the provisions of Section 175ZE of the Electoral Act, and henceforth will be providing the appropriate information. However, I am not prepared for agencies to devote the considerable resources necessary to retrospectively prepare this report, and in particular to provide the level of detail requested. If the member has a question in relation to a specific advertising contract I will endeavour to provide the information.

(5) Due to an administrative oversight, most of the agencies were not aware of the requirement to provide this statement.

(13) Aboriginal Affairs Department & Aboriginal Affairs Planning Authority - Stan Stylainou
Government Employees Housing Authority- Trevor Clarey
Homeswest - Alex Anastasakis
Office of Water Regulation - Susan Henshall
Water and Rivers Commission - any two members of the Board of the Water and Rivers Commission
Water Corporation - Allan Roberts

MARITIME LEGISLATION COSTS

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

(1) How long has the Department of Transport (or the former Department of Marine and Harbours) been working on the Maritime Legislation?

(2) What costs have been incurred over this period (including salary costs) in relation to the introduction of the legislation?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(1) Work on the Maritime Bill commenced in 1993 and has progressed steadily over the period, given the complex nature of the Bill.

(2) Detailed costings are unavailable.

MID WEST GAS PIPELINE

746. Mr GRILL to the Minister for Resources Development:

With respect to the proposed Mid West gas pipeline project announced by the Minister for Energy -

(a) how firm is the commitment to extend the pipeline to Cue and Meekatharra;

(b) when will this happen;

(c) what is the costs of the extension to Cue and Meekatharra;

(d) is the subsidy payable by the Government prior to the extension of the pipeline to Cue and Meekatharra;

(e) if yes, how can that be justified; and

(f) on what basis is access to the pipeline shared by the joint venture partners?

Mr BARNETT replied:

(a)-(b) The Government's commitment to provide support to Western Power for the borrowing costs associated with its share of a gas pipeline to Mt Magnet and then to Cue and Meekatharra is firm.

(c) It is currently estimated at $22.3 million.

(d) Yes, part of the assistance package applicable to the pipeline from the Dampier to Bunbury Natural Gas Pipeline (DBNGP) to Mt Magnet will be payable prior to any extension of the pipeline to Cue and Meekatharra.

(e) The assistance package is related to bringing more competitive energy pricing to Mt Magnet and facilitating subsequent extension to other areas of the Mid West.

(f) The basis of sharing of access will depend on the individual requirements of each joint venture to transport gas for its own purposes and potentially the requirements of third parties for whom access is expected to be covered by the Gas Pipeline Access (Western Australia) Bill 1998 which will implement the National Third Party Access Code for Natural Gas Pipeline Systems when enacted.

CAMBRIDGE GULF, DRILLING

810. Mr BROWN to the Minister for Resources Development:

(1) Is the Minister aware if any companies have signalled an intention to drill in the Cambridge Gulf?

(2) Is consideration being given to the establishment of a support base for the drilling?

(3) Is consideration being given to a support base being established in Broome or Wyndham?

(4) Which location is being examined?

(5) Is the Government actively involved in this examination?

(6) Will the Government be endeavouring to promote Wyndham as an appropriate place for the support base?

(7) If not, why not?

Mr BARNETT replied:

(1) No. However Woodside has been granted permits in the adjacent Joseph Bonaparte Gulf, which is in Commonwealth waters. Woodside has a proposal to drill in the year 2001.

(2) No, as the proposed program would not support the establishment of such a base.

(3)-(7) Wyndham and Broome are included in a State feasibility study into locating a support base in the Kimberley region in response to the general exploration and development in the offshore areas.

MINISTER FOR HEALTH

Trade Delegation to Indonesia and Thailand

979. Mr RIEBELING to the Minister for Health:

With regard to the former Minister's visit to Indonesia and Thailand as part of a trade delegation between 7 and 17 December 1997 -

(a) who accompanied the Minister as part of the delegation;
(b) will the Minister table a copy of the former Minister's itinerary;
(c) if not, why not;
(d) did the Minister write a report of the trip;
(e) will the Minister table a copy of the report; and
(f) if not, why not?

Mr DAY replied:

(a) The Honourable Kevin Prince LL.B MLA
Mrs Sheena Prince, Wife of Minister
Dr Gareth Goodier, Chairperson, The Australia Clinic and CEO King Edward Memorial and Princess Margaret Hospitals
Ms Naomi DeAraugo, Director, The Australia Clinic
Mr Gary Hamley, Chief of Staff to The Minister for Health
Mr Michael Hartfield, Director, Silver Thomas Hanley *
Mr Glyn Palmer, CEO, St John of God Hospital – Murdoch *
Mr Walter Gilmore, Director of Finance, Sir Charles Gairdner Hospital
Professor Dr Philip Thompson, Consultant Respiratory Physician, Sir Charles Gairdner Hospital
Dr Michael McComish, Consultant Physician, Royal Perth Hospital*
Mr John Burns, CEO, Royal Perth Hospital
*Accompanied the Minister on Indonesian sector only

(b) Yes. [See paper No 432.]

(c) Not applicable.

(d) A visit report was prepared by the Director of The Australia Clinic.

(e) Yes. [See paper No 432.]

(f) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Use of Private Investigation Agency

1052. Mr RIEBELING to the Minister for Health:

(1) Have any of the Government Departments or Agencies under the Minister's jurisdiction used the services of a private investigation agency since 1 January 1996?

(2) If yes, why was the investigation agency used?

(3) What was the name of the investigation agency?

(4) How much was the investigation agency paid?

Mr DAY replied:

Office of Health Review
(1) No.

(2)-(4) Not applicable.

Health Department
(1) Yes.
(a) Royal Perth Hospital;
(b) King Edward Memorial and Princess Margaret Hospitals;
(c) Fremantle Hospital.

(2) (a) Alleged harassment of a staff member in December 1996.
(b) To provide advice on hospital security, training, as well as follow-up and investigation of certain hospital security incidents.
(c) To investigate theft of patient property.

(3) (a) Paul Pittorino Investigations.
(b)-(c) Hospital Security Services.

(4) (a) $494
(b) Approximately $2 000 per annum
(c) $350

Healthway
(1) No.

(2)-(4) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS WITH EMPLOYER ORGANISATIONS

1122. Mr KOBELKE to the Minister for Health:

(1) Have any departments or agencies within the Minister's portfolios, let or made contracts, grants, or secondments, since 1 July 1997 to the Western Australian Chamber of Commerce and Industry, or any other employer organisations or bodies controlled by an employer or industry organisation?

(2) If yes, what are the details of each case including -

(a) the department or agency involved;
(b) the recipient of the contract, grant or secondment;
(c) a description of the purpose for the contract, grant or secondment; and
(d) the value or cost of the contract, grant or secondment?

Mr DAY replied:

Office of Health Review
(1) No.

(2) Not applicable.

Health Department
(1)-(2) During 1997 the teaching hospitals of the Metropolitan Health Service Board were members of the Western Australian Chamber of Commerce and Industry and as such availed themselves of its services including using Chamber of Commerce and Industry assistance with industrial negotiation. No staff were seconded or other contracts extended to the Western Australian Chamber of Commerce or any other employer organisation.

Healthway
(1) No.

(2) Not applicable.

ALBANY RING ROAD - COST

1346. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Albany Highway - Albany Ring Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 269 dated 12 August 1998.

ALBANY HIGHWAY, BEDFORDALE HILL - COST

1347. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Albany Highway - Bedfordale Hill -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 270 dated 12 August 1998.

ALBANY HIGHWAY, KOJONUP-MT BARKER - COST

1348. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Albany Highway - Kojonup-Mt Barker -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 271 dated 12 August 1998.

ALBANY HIGHWAY-LAKE GRACE ROAD - COST

1349. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Albany Highway - Lake Grace Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 272 dated 12 August 1998.

BINDOON-MOORA ROAD - COST

1350. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Bindoon-Moora Road - Bindoon-Mogumber -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 273 dated 12 August 1998.

BUSSELL HIGHWAY, BUSSELTON-CAVES ROAD - COST

1351. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Bussell Highway - Busselton-Caves Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 274 dated 12 August 1998.

BUSSELL HIGHWAY, CAPEL-BUSSELTON - COST

1352. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Bussell Highway - Capel-Busselton -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 275 dated 12 August 1998.

CARNARVON-MULLEWA ROAD - COST

1353. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Carnarvon - Mullewa Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 276 dated 12 August 1998.

GRAHAM FARMER HIGHWAY - COST

1354. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of City Northern Bypass - Graham Farmer Highway -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 277 dated 12 August 1998.

GERALDTON-MT MAGNET ROAD - COST

1355. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Geraldton - Mt Magnet Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 278 dated 12 August 1998.

GREAT EASTERN HIGHWAY, NORTHAM BYPASS - COST

1356. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Great Eastern Highway - Northam Bypass -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 279 dated 12 August 1998.

GREAT NORTHERN HIGHWAY, KARALUNDI - COST

1357. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Great Northern Highway - Karalundi -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 280 dated 12 August 1998.

KARIJINI EAST-WEST LINK ROAD - COST

1358. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Karijini East - West Link Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 281 dated 12 August 1998.

MARBLE BAR ROAD - COST

1359. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Marble Bar Road - Marble Bar - Shaw River -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 282 dated 12 August 1998.

BEENUP AND JANGARDUP MINERAL SANDS PROJECT - COST OF ROAD

1360. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Mineral Sands Project - Beenup and Jangardup -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 283 dated 12 August 1998.

MINILYA-EXMOUTH ROAD - COST

1361. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Minilya-Exmouth Road - over Lyndon Bridge -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 284 dated 12 August 1998.

MITCHELL FREEWAY, LOFTUS STREET - COST

1362. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Mitchell Freeway - Loftus Street -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 285 dated 12 August 1998.

MUIRS ROAD, WILGARUP - COST

1363. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Muirs Road - Wilgarup -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 286 dated 12 August 1998.

NORTH WEST COASTAL HIGHWAY, KARRATHA-ROEBOURNE - COST

1364. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of North West Coastal Highway - Karratha-Roebourne -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 287 dated 12 August 1998.

OLD FARM ROAD, WYNDHAM - COST

1365. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Ord Farm Road - Wyndham -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 288 dated 12 August 1998.

PEEL-BUNBURY OUTER RING ROAD - COST

1366. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Perth-Bunbury Highway - Peel-Bunbury Outer Ring Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 289 dated 12 August 1998.

PORT GREGORY-KALBARRI ROAD - COST

1367. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Port Gregory - Kalbarri Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 290 dated 12 August 1998.

REID HIGHWAY, MARMION AVENUE-ROE HIGHWAY - COST

1368. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Reid Highway - Marmion Avenue-Roe Highway -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 291 dated 12 August 1998.

RIPON HILLS ROAD - COST

1369. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Ripon Hills -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 292 dated 12 August 1998.

ROE HIGHWAY, NICHOLSON ROAD-SOUTH STREET - COST

1370. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Roe Highway - Nicholson Road-South Street -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 293 dated 12 August 1998.

ROE HIGHWAY, WIMBLETON STREET-NICHOLSON ROAD - COST

1371. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Roe Highway - Wimbleton Street-Nicholson Road -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 294 dated 12 August 1998.

ROE HIGHWAY, SOUTH STREET-KWINANA FREEWAY - COST

1372. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of Roe Highway - South Street-Kwinana Freeway -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 295 dated 12 August 1998.

SOUTH WESTERN HIGHWAY, BOYANUP-YORNUP - COST

1373. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of South Western Highway - Boyanup-Yornup -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 296 dated 12 August 1998.

SOUTH WESTERN HIGHWAY, DENMARK-WALPOLE - COST

1374. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of South Western Highway - Denmark-Walpole -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 297 dated 12 August 1998.

SOUTH WESTERN HIGHWAY, WAROONA-HARVEY - COST

1375. Ms MacTIERNAN to the Minister representing the Minister for Transport:

In respect of South Western Highway - Waroona-Harvey -

(a) what was the estimate of the cost of the road in the 1997-98 budget;

(b) what is the estimate of the cost of the road in the 1998-99 budget;

(c) what is the reason for the increase;

(d) who are the contractors engaged to provide the works; and

(e) who were the parties supervising the contractors providing the works?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

(a)-(e) Refer to response provided to Parliamentary Question Legislative Assembly 298 dated 12 August 1998.

QUESTIONS WITHOUT NOTICE

ANTI-CORRUPTION COMMISSION - INVESTIGATION OF COMPLAINTS BY OMBUDSMAN

419. Dr GALLOP to the Premier:

I refer to the actions of the Commissioner of Police in referring complaints to the Ombudsman for investigation about the conduct of the Anti-Corruption Commission over the recent raid on the armed robbery squad and ask -

(1) Will the Premier give an assurance that the Anti-Corruption Commission will cooperate fully with the Ombudsman even though it is outside the Ombudsman's jurisdiction?

(2) Does the Premier intend to introduce enabling legislation so that in future the Ombudsman can investigate complaints against the ACC without having to rely on nothing more than the commission's goodwill?

Mr COURT replied:

(1)-(2) As the Leader of the Opposition is aware, some complaints against the ACC were addressed by Mr Boucher. As I said last week, that report will be made public and it will be put to Cabinet.

Mrs Roberts: Why wasn't it put to Cabinet on Monday?

Mr COURT: I just said it will be put to Cabinet; then it will go to a joint committee and will be tabled in the Parliament. The joint committee also has made recommendations on whether there should be a standing person or body in place to address complaints.

Mr Thomas: You were reported in this morning's *The West Australian* as being tepid about that recommendation.

Mr COURT: If the member for Cockburn believes -

Several members interjected.

The SPEAKER: Order!

Mr COURT: We are certainly prepared to consider the recommendation of establishing a watcher for the watcher. If we appoint a watcher, the Leader of the Opposition will then want a watcher of the watcher of the watcher.

Dr Gallop: No, you are it, Premier. You are the minister responsible and you do nothing.

Mr COURT: At the end of the day, the responsibility stops somewhere. I am not aware of the ACC saying that it would not cooperate with the Ombudsman. However, if the Leader of the Opposition has information to the contrary, I would like to know.

HOSPITAL WAITING LISTS

420. Mr BARRON-SULLIVAN to the Minister for Health:

Could the minister inform the House about the latest position relating to hospital waiting lists, following the Premier's successful negotiation with the Federal Government earlier this year which saw an additional $125m allocated to Western Australia's Health budget.

Mr DAY replied:

I thank the member for some notice of this question. I am delighted to say that there is some good news for people on waiting lists. In particular, there has been a significant drop for the fourth month in a row in the number of people on waiting lists for elective surgery at the teaching hospitals in the Perth metropolitan area.

Mrs Roberts: What about a dialysis machine for Swan District Hospital? When will we get that?

Mr DAY: Swan District Hospital will get a dialysis machine just as Armadale-Kelmscott Memorial Hospital and Kalgoorlie Regional Hospital have; and, as the member for Geraldton tells me, just as Geraldton hospital has. The Government is not just talking about it; it is doing something about it.

Several members interjected.

The SPEAKER: Order! I remind members that I allow a reasonable level of interjecting, particularly from the member who has asked the question. However, the minister must be given an opportunity to answer the question that he has been asked.

Mr DAY: There has been a drop of more than 2 000 in the number of people waiting for elective surgery in that period.

At the end of October just under 15 000 people were waiting for elective surgery compared with just under 17 000 at the end of June. That is a significant reduction and one which is good testament to the strategies implemented by this Government to increase the amount of elective surgery undertaken. As members are aware, a commitment was given by the Premier, following agreement that he reached with the Prime Minister, for an additional $125m for increased elective surgery in Western Australia, that all of that funding would be directed into that area. The strategies are working. There is now a significant increase in the number of procedures being performed at most of our major hospitals, in particular Sir Charles Gairdner Hospital, which has made extremely good progress in removing people from the waiting list who need joint replacements and cataract removals.

The situation is typified by the case of one lady whose name I do not hesitate to mention because she was the subject of some public coverage, following the interest of the Opposition three or four weeks ago and coverage in one of the newspapers. It is the case of Mrs Zalmestra who was waiting for an aortic aneurysm replacement. She was on the waiting list for that procedure to be performed at Fremantle Hospital. For very good reason, it was not able to be performed on the days when she had been booked in for surgery and she was waiting for a longer period than all of us would have desired.

Mr McGinty: She does not particularly thank you for that.

Mr DAY: I will come to that in a moment. Following the activities of the central wait list bureau and successful work by that bureau - and I pay tribute to the staff of that bureau - to ascertain where she could be given treatment earlier, she was treated two or three weeks ago at Joondalup Health Campus by an alternative surgeon. That is an extremely good outcome for Mrs Zalmestra. The same sort of thing is being done for every patient who can be identified as able to be treated at other hospitals, so that their waiting time is reduced.

Ms MacTiernan: The only waiting list will be of people wishing to see the member for Fremantle because he is obviously the only one who can get people their operations.

Mr DAY: I am delighted to say that I received a very appreciative card from Mrs Zalmestra last week and I thank her for that. She was obviously genuinely appreciative of the work done and that her operation was brought forward from when it otherwise would have been performed. As a result of the activities of the central wait list bureau and the hard work by many doctors and other health professionals in our public hospitals, together with the injection of funds of $125m by this Government into increasing the amount of elective surgery performed in this State, the patients in Western Australia are being much better treated, and sooner, than was ever the case in the past.

DRUG TASK FORCE - UNDERSPENDING OF BUDGET

421. Ms ANWYL to the Premier:

I refer to the Appropriation (Consolidated Fund) Bill (No 3) and the clause notes provided to the Opposition today and ask -

(1) How does the Premier justify underspending the drug task force's budget by a massive $365 000 during 1996-97, at a time when Western Australia was in the grip of a heroin overdose epidemic, and redirecting that funding towards the refurbishment of office accommodation?

(2) Why did the Premier place priority on office refurbishments rather than saving the lives of young Western Australians?

Mr COURT replied:

The member is being a little selective in her use of budget information. Underspending and overspending occur in certain areas right across the budget, and the member can now see where that funding applied as there is total budget transparency. A dramatic increase has occurred in spending on our drug programs. Members will see that funding for a number of those programs has increased from zero to a level which enables a very effective drug action group to operate. If a program is not ready to be implemented, one does not spend the money on it. Rather, money is put aside in the budget to be expended when the project is ready to run. The member will find in the next group of figures that the drug program has received a significant increase in funding.

REAL ESTATE AND BUSINESS AGENTS' FEES DEREGULATION BROCHURE - ALLEGATIONS BY MEMBER FOR ARMADALE

422. Mr BLOFFWITCH to the Minister for Fair Trading:

I refer to the grievance raised by the member for Armadale in this House on Wednesday, 11 November, which I am sure the minister will remember. During debate the member for Armadale alleged that the brochure "Deregulation of Professional Fees" relating to the recent deregulation of fees for real estate and business agents contained information which constituted misleading and deceptive behaviour on behalf of the Ministry of Fair Trading and the Real Estate Institute of WA, and was a breach of the Trade Practices Act. Is the allegation true?

Mr SHAVE replied:

It is most unfortunate that the member for Armadale made such a serious allegation in this place. In an entirely proper cooperative effort, the Ministry of Fair Trading and the Real Estate Institute of WA provided information to consumers and the real estate and business agents industry about the important changes to the laws affecting them. I took up the matter with the Crown Solicitor, and I advise the House that the allegations by the member for Armadale were not correct. The Crown Solicitor's Office has advised that the relevant sections of the Trade Practices Act do not bind the State; therefore, the ministry cannot be in breach of that Act. I appreciate that this is a technicality, although I thought the member for Armadale, being a lawyer, would understand that point. More importantly, the Crown Solicitor's Office has advised that even if the State were bound by the relevant sections of the Trade Practices Act, neither the production of the brochure nor its contents would constitute a breach of sections 52, 53C or 55A of that Act.

The Crown Solicitor's Office went further and indicated that the ministry had not breached the Fair Trading Act, and pointed out that the production of a brochure of this type is consistent with the powers and obligations of the ministry. It is very disappointing to listen to the member for Armadale making outrageous allegations in this place. It says a lot about her credibility and legal judgment. It is another example of the member trying to play up to the press gallery in an effort to get her photograph in the newspaper.

ROYAL COMMISSION INTO THE CITY OF WANNEROO - MINISTERS' LEGAL COSTS

423. Mr McGOWAN to the Premier:

(1) Will the Premier provide details of all legal costs paid by the State for ministers appearing before the Royal Commission into the City of Wanneroo?

(2) At page 12 of the clause notes for the Appropriation (Consolidated Fund) Bill (No 3) it is stated that additional funding was required for "ex gratia assistance for the legal costs of ministers and others" appearing before the Royal Commission into the City of Wanneroo; who were the ministers and others, and how much were they paid?

Mr COURT replied:

I thank the member for providing some notice of this question this morning. Not all the information was available at question time, and I hope to have it available later this afternoon or tomorrow at the latest. I cannot give the member the detail until I have all the information.

NATIVE TITLE - RIGHT TO NEGOTIATE

424. Mr JOHNSON to the Premier:

In the native title debate in this Chamber yesterday, the Leader of the Opposition and the member for Willagee stated that under the proposed state native title process, the right to negotiate would apply to only between 1.4 and 1.6 per cent of land. Is this correct or were the members being mischievous?

Point of Order

Mr KOBELKE: The question contains an imputation about members on this side of the House. Therefore, it is outside standing orders and should not be allowed.

The SPEAKER: I have no problem with the first part of the question, and I will allow the other parts.

Questions without Notice Resumed

Mr COURT replied:

Yesterday it was stated that the right to negotiate would apply over only 1.4 or 1.6 per cent of land in this State.

Dr Gallop: Do you want to know our source?

Mr COURT: Yes.

Dr Gallop: It was John Clarke; your adviser at a briefing you arranged.

Mr COURT: The claim is a gross distortion. Under the system proposed in our legislation, the right to negotiate applies to all land where native title could possibly amount to full beneficial ownership; that is, the Government is giving native title holders procedural rights which equate to those of a freeholder where native title could amount to the exclusive occupation or possession of those lands. Two types of land come under those definitions. First, those lands which have never been under any other form of tenure - that is, so-called vacant crown land - and a significant part of land in this State in the form of reserves and special leases which have not been subject to tenure. Vacant crown land comprises 23.5 per cent of the State, and the other land - Aboriginal land - adds a further 8 per cent. That is a total of 31.5 per cent. There is a big difference between 31.5 per cent and 1.5 per cent.

The Government has highlighted the fact that the Opposition has been asleep for six years on this issue. It does not understand what land we are talking about to which the right to negotiate provision will apply. However, members opposite ask the Government to accept amendments to re-instate a right to negotiate over leasehold land in this State. We have highlighted -

Mr Ripper: That your adviser is incompetent, perhaps.

Mr COURT: No. Our native title advisers are as good as, or better than, any in this nation, my friend.

Mr Carpenter: Is 7:0 in the High Court a good performance? You're a goose - sit down! You've made a complete fool of yourself on this issue from the start.

Withdrawal of Remark

The SPEAKER: Order! The member for Willagee has been here for long enough not to refer to a member in that way. I ask him to withdraw.

Mr CARPENTER: I withdraw.

Questions without Notice Resumed

Mr COURT: The most serious issue under debate in this legislation is the right to negotiate provision. The Opposition has said that the Government will withdraw the right to negotiate except on 1.5 per cent of land. In fact, the figure is 31.5 per cent. If that is the level of opposition competence in this debate, we are in for an interesting couple of weeks.

AMPOL SERVICE STATION, KARRATHA - WORKPLACE AGREEMENT

425. Mr KOBELKE to the Minister for Labour Relations:

(1) Was an officer from the Department of Productivity and Labour Relations involved in both the drafting of a workplace agreement for the Ampol service station in Karratha, and the intimidation of the service station employees in an attempt to get them to sign such an agreement?

(2) Will the minister give an assurance that there will not be a cover-up of this potential breach of the Workplace Agreements Act, and that the matter will be fully investigated?

Mrs EDWARDES replied:

(1)-(2) The member for Nollamara brought this matter to the attention of the Parliament and it is being investigated currently. I have an initial report but it is only superficial. Yes, the matter will be thoroughly investigated and there will not be a cover-up.

PEEL ESTUARY - AQUACULTURE PROJECTS

426. Mr MARSHALL to the Minister for Fisheries:

The Peel Development Commission is considering the development of aquaculture in the Peel waterways in order to enrich the estuary with live fish stock and to add to the tourist destinations in the area. I ask the minister -

Mr Graham: It has taken five years in the Pilbara.

(1) How many aquaculture projects are functional or are being trialled in Western Australia?

(2) How long does it take for a fish farm to become productive?

(3) How many centres are making reasonable profits from such ventures?

Mr HOUSE replied:

I will come back to the interjection by the member for Pilbara in a moment, because he makes an interesting point and it needs to be enlarged upon.

(1)-(3) Aquaculture is a growth opportunity in this State and over the past five or six years the Government has put a great deal of effort and substantial dollars into assisting the aquaculture industry to get off the ground. From a very small beginning, Western Australia now has 250 licensed aquaculture ventures. Of those, 50-odd are either water-based or on crown land, and the others are on private property. The most successful ventures are those on private property, involving such things as yabbies, koonacs and marron. To a lesser extent there has been some success with fin fish and other marine-based aquaculture. That is where the member for Pilbara makes an interesting interjection and a good point.

In many places people have not been very accepting of aquaculture developments. They are not well received and

there are a number of examples in the State of that, including one in the Pilbara electorate. I suspect the member for Dawesville raised this question because he anticipates problems with the public process for aquaculture development in his area. This State has a strict public process in place which involves the community, local authorities and professional and recreational fishermen. The Government has received a huge number of objections to many of those aquaculture ventures. It is rather disappointing and it is something for which a different solution must be found. In other words, perhaps in some of the more built-up areas aquaculture will not be an option, although it has been well received in places such as Cockburn Sound. Recently, those ventures have been relocated.

Mr Graham: You should set a time line and approve it in that time line.

Mr HOUSE: Once again, the member for Pilbara makes an adequate interjection; that is, that a time line should be set in the process. The Government is now doing that so that proponents have a clear idea of the time it will take for their applications to be processed. There have been relative success stories. The member for Dawesville asked how many aquaculture projects have been successful and how long it has taken. As with all private business ventures, some have failed and others have been very successful. The growth of aquaculture in this State, particularly in areas such as abalone and fin fish, will continue to progress at a satisfactory rate.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

427. Ms MacTIERNAN to the Minister for Fair Trading:

(1) Is the minister aware of the decision handed down in the Supreme Court yesterday wherein the Real Estate and Business Agents Supervisory Board was ordered to give a 92-year-old victim of real estate fraud a copy of the legal opinion on which the board relied in order to refuse his claim?

(2) Is the minister also aware that this elderly victim is now taking the board to court to obtain the board's reasons for refusing his claim?

(3) Will the minister now use his legislative powers and intervene to direct the board, as a matter of policy, to provide claimants with reasons for the board's decisions and access to the legal advice on which those decisions are based?

Mr SHAVE replied:

(1)-(3) I have been advised that on 17 November the Supreme Court ordered the Real Estate and Business Agents Supervisory Board to provide a copy of legal opinion to a fidelity guarantee fund claimant. This decision arises as part of ongoing legal action the claimant has taken against the board. The board gives claimants against the fund information about the basis on which the board makes its decisions on claims. Early next year the Supreme Court, when dealing with the remainder of the current action taken by the claimant against the board, will consider matters relating to the processes of the board in dealing with the claim against the fund. In view of these circumstances, I am advised it would be appropriate for the legal process to be concluded before I consider any directions.

Ms MacTiernan: How do you take your salary? It is only that this bloke is quite wealthy that he can take this matter to the Supreme Court. What about the hundreds of victims who must cop this when the board will not give reasons why it made a decision or refuses access to the legal opinions? They get nothing, and you sit there and do nothing.

The SPEAKER: Order! The member for Armadale has spoken for long enough.

Mr SHAVE: The member for Armadale should unfold her arms because it is a sign that she is getting cross. Lastly, in any event I am advised that the board will comply with any decisions of the Supreme Court.

WORKERS COMPENSATION LEGISLATION

428. Mr OSBORNE to the Minister for Labour Relations:

Further to my question last week on this matter, in view of the minister's stated intention that workers compensation legislation will complete its passage through Parliament this session, and in view of the gravity of the issue, what is the current progress of negotiations with various stakeholders and the planned progress of the legislation?

Mrs EDWARDES replied:

I thank the member very much for this question. As all members know, workers compensation premiums in Western Australia are the highest in Australia. If nothing is done to stop the spiralling cost of those premiums, they will have a major impact on all industry, particularly small businesses, and will affect employment opportunities. Legislation introduced by this Government to close the second gateway has not been accepted by the Parliament, and I have been meeting stakeholders in the past couple of months in an endeavour to reach agreement on a process to stop the spiralling costs of those premiums. The Government wants to ensure that, at least for the short term, those businesses have some relief and that jobs will be

protected. Agreement has been reached between the Chamber of Commerce and Industry of Western Australia and the Trades and Labor Council, although they do not necessarily represent all employers and employees. It is indicative of that support that these changes will affect and make changes for both employers and workers.

The second gateway will not be closed. There will be a threshold, and the multiple of earnings will be much more equitable. It will ensure that those on lower wage scales and part-time workers have access through the second gateway. The threshold will be seven years loss of salary over a 10-year period. Damages will be capped for the second gateway. It is proposed that people will be able to access the common law by virtue of a writ rather than a section 93D application, there will be a broadening of the redemption provisions, and agreement has been reached on a statutory negligence test. The amendments have been introduced in the other place in the form of a motion amending the message from the Assembly to the Council. I hope the amendments will have the support of both Houses of Parliament to ensure they are passed before Christmas and that they have an impact on the premiums as soon as possible. The insurance industry has indicated that if the legislation is passed soon enough, it will have an effect on the premiums to be set in December.

NATIVE TITLE, COMPENSATION

429. Dr GALLOP to the Premier:

I refer to the Premier's admonition to members to get their act together on native title and ask -

(1) Did the Government's advisers tell the Opposition that compensation under the Titles Validation Amendment Bill would be payable under the Land Administration Act?

(2) Did the Government later provide written advice to the House that compensation would be determined by the Federal Court under provisions of the Native Title Act?

(3) What was the reason for the conflicting advice given to Parliament?

(4) Which is the correct answer?

Mr COURT replied:

(1)-(4) The Leader of the Opposition is a bit sensitive about a bit of a mishap yesterday. I am not aware of the advice that has been provided. I will see what advice was given, but that does not change the fact that the Leader of the Opposition yesterday created the very clear impression that only 1.5 per cent of the State would be subject to the right to negotiate on the most fundamental point of the legislation. He either does not understand or has deliberately misled.

EMPLOYMENT - UNION ACTIVITIES

430. Mrs HOLMES to the Minister for Employment and Training:

As the Government has a strong commitment to enhancing the employment prospects for Western Australians, which is borne out by the continuing excellent record of job creation in this State, will the minister inform the House of any action taken which could actively discourage employers from providing jobs in this State?

Mr KIERATH replied:

Members on this side have taken great pleasure in congratulating employers on their positive attitude to employment in this State. We congratulate anybody who takes a positive initiative to create jobs for Western Australians. Despite other economies around the world experiencing difficulties and problems, this State has continued to expand its business activities and to provide excellent job prospects for its workers. However, I have become aware of a serious lack of understanding of the importance of attracting work by members of one union. I will not dwell on the precise nature of that matter because one person has been charged by the police, but suffice to say that in response to such activities the major employer concerned indicated that key contracts on Woodside projects would go overseas, and the reason given was the disruption by that union. That is disgraceful. A union's actions are jeopardising employment prospects in this State.

Yesterday the member for Nollamara called on the Minister for Energy to use his good offices to insist that a company employ more apprentices. I now call on the Leader of the Opposition to use his good offices to make sure that activities by certain of his political mates do not jeopardise job prospects for Western Australians.

POINT JAMES PORT, TENDERS

431. Ms MacTIERNAN to the minister representing the Minister for Transport:

(1) Will the minister confirm that only one consortium has tendered for the controversial Point James port and that that consortium is led by none other than Western Stevedores?

(2) Does the minister accept that the withdrawal of all other consortiums is evidence that the port just does not stack up economically and, just as the Deputy Premier admitted a fortnight ago, was an opportunity to harass the Maritime Union of Australia?

Mr OMODEI replied:

I thank the member for some notice of this question. The Minister for Transport has provided the following response -

(1)-(2) The opportunity to build, own and operate a multifunction port at Naval Base/Kwinana is subject to a formal tender process. I am awaiting the report of the evaluation committee which I expect to receive shortly.

It is not appropriate for me to discuss details of a tendering process while it is under way; however, I will be in a position to inform the House of the outcome when I have considered the committee's recommendations.

BUSSELTON SEWAGE TREATMENT PLANT

432. Mr MASTERS to the Minister for Water Resources:

The Water Corporation supports the principle of re-using treated waste water from the soon-to-be-completed upgraded sewage treatment plant in Busselton. However, several constituents have been concerned at the very high standards required by the Water Corporation for piping to be used by people wishing to pipe recycled water to their properties.

Considering the average cost of about $25 000 per kilometre for pipelines used in the wheatbelt area as part of the Government's excellent country water supply scheme, what justification can be given for requiring pipelines costing up to $100 000 per kilometre in the Busselton area?

The SPEAKER: Before I call upon the minister, I remind members that we want short questions, not half answers and questions.

Dr HAMES replied:

I will compensate by giving a short answer. The initial indicative cost was $100 000 per kilometre in the Busselton area. That was because no work had been done to ascertain all the problems that might occur in getting the pipe from one area to another, and it is in completely different terrain from that in the farming community. The price is expected to reduce significantly. We must remember, of course, that it is in the best interests of the Water Corporation to recycle water anyway. The Water Corporation certainly wants to promote every opportunity to recycle water from waste water treatment plants. In this instance, as the member knows, we expect to use the waste water on a golf course. I am watching the situation closely and I hope that the figure will reduce significantly.

DISABILITY SERVICES COMMISSION DEBT

433. Mr CARPENTER to the Minister for Disability Services:

Will the minister tell the Parliament whether savings made from staff productivity gains or from non-payment of days off owed to staff, which is now valued at $1.6m, are being or have been used to repay Disability Services Commission debt?

Mr OMODEI replied:

I responded to a similar question yesterday in relation to accrued days off. I understand that the liability at the moment stands at $1.5m. Based on experience, about 25 per cent is expected to be cashed with the balance being taken as leave. I think that is the response to the question that the member for Willagee asked. However, I am not aware of any savings as a result of the accrued days off issue.

Mr Carpenter: Staff productivity gains as well. Are you paying off debt while you are not paying staff?

Mr OMODEI: Not to my knowledge. The member should give me some notice of the question and I will seek advice from the Disability Services Commission. As I have said before in the House, there have been some cost overruns in some regions. Mechanisms have been put in place to reduce those overruns and I expect them to come in on balance.
